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# Congress of the United States

## House of Representatives

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### Opening Statement

**Rep. Elijah E. Cummings**  
**Ranking Member, House Committee on Oversight and Government Reform**

**Hearing on "Financial Management, Work Force, and Operations at the SEC:  
Who's Watching Wall Street's Watchdog?"**

**March 10, 2011**

This Committee is responsible for ensuring that our government operates efficiently and effectively. That means holding public officials to the highest standards, demanding excellence at every turn, and eliminating even the appearance of impropriety.

Today, the Committee intends to examine allegations against David Becker, the former General Counsel of the SEC. I do not know Mr. Becker, I have never met him, and the minority was excluded from Mr. Becker's interview with Chairman Issa's staff. But I do want to make sure that everyone who comes before this Committee is treated fairly, including Mr. Becker.

If I understand the facts correctly, Mr. Becker's parents invested about \$500,000 with Bernie Madoff in 2000. Mr. Becker's mother died in 2004. When her funds were liquidated and divided among Mr. Becker and his two brothers in 2006, they had increased to about \$2 million.

Mr. Becker states that when he joined the SEC in 2009, he notified SEC officials about his inheritance, and when issues arose relating to his inheritance, he sought advice from SEC ethics officials.

On May 4, 2009, Mr. Becker sent an email to the SEC ethics counsel seeking guidance about whether he should be recused from working on an issue relating to efforts by the Trustee representing Madoff victims to recover, or "claw back," assets on their behalf. In response to this email, the ethics counsel concluded that Mr. Becker did not have a financial conflict of interest and could participate. So Mr. Becker disclosed his inheritance, sought guidance from his ethics counsel, and received clearance to proceed.

Some have suggested that Mr. Becker may have benefited financially from the SEC's later decisions. But it appears that the opposite may be true.

The basic question the SEC faced was whether to support an asset valuation method used by the Trustee—called the “cash-in, cash-out” method—or a different valuation method proposed by several law firms—called the “last statement” method. Under the first, Mr. Becker’s inheritance would be subject to claw back litigation. Under the second, it appears that it would not.

Based on the court filings, the SEC chose to support the first method. This meant the Trustee could sue Mr. Becker and his brothers to recover some of his mother’s inheritance, which is exactly what happened. Had the SEC backed the law firms instead of the trustee, it appears that Mr. Becker’s inheritance may have been more protected against claw back litigation.

Mr. Chairman, your briefing memo for today’s hearing acknowledges that this SEC decision was actually “detrimental to Becker’s interests.” And one of our witnesses states in her written testimony that “one could admire Mr. Becker for advocating a position that was adverse to his own personal interests.”

Nevertheless, I have serious questions about the conclusion of the SEC ethics office that these issues had no effect on Mr. Becker’s financial interests. Someone else of questionable character might have tried to take advantage of this situation. I also have questions about whether Mr. Becker’s interest should have been disclosed more widely within the SEC. I hope we can learn more about this process today.

Mr. Chairman, let me conclude by noting that the SEC must have the resources necessary to fulfill its mission of protecting investors and ensuring fair, orderly, and transparent markets. Unfortunately, Republican budget cuts would severely impair the SEC’s ability to police our financial markets. SEC Inspector General David Kotz has stated that these proposed budget cuts would require the SEC to reduce its staff and damage its ability to enforce U.S. securities laws.

I look forward to asking our witnesses about all of these issues, and I thank you for calling today’s hearing.