



Federal Maritime Commission
Washington, D.C. 20573 - 0001

Office of the Chairman

October 24, 2016

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

This letter is to report a violation of the Antideficiency Act (ADA), as required by 31 U.S.C. § 1351. A violation of 31 U.S.C. § 1341 occurred in account 650100 Salaries and Expenses, Federal Maritime Commission in the amount of \$7,084.10. It has been determined that the FMC expended in excess of the \$5,000 statutory limit allowable to furnish or redecorate the office of the former Chairman of the Federal Maritime Commission without notifying Congress as required by the Consolidated Appropriations Act, 2010, as described in more detail below.

The ADA violation occurred when funds were expended in Fiscal Years 2010 and 2011 that exceeded the \$5,000 limitation to “furnish[ing] or redecorate[ing] the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is transmitted to the Committees on Appropriations of the House of Representatives and the Senate.” *Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, div. C, title VII, § 711*. The Office of Management Services (OMS) made purchases for the office and suites of former Chairman Richard A. Lidinsky, Jr.

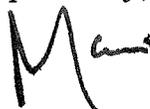
Although staff maintained a log of all expenses subject to the limitation for each Commissioner and the former Chairman, due to miscommunication between Commission offices, the former Chairman’s expense log was not timely updated and was therefore incomplete during this period, resulting in expenses exceeding the allowable limit. Accordingly, no advance notification was given to Congress prior to making the purchases that exceeded the \$5,000 limit. The Federal Maritime Commission’s Inspector General opened an audit of the relevant expenses in April 2013 and issued an audit report in September 2015 detailing them, a copy of which is attached. At the suggestion of the Inspector General, the Federal Maritime Commission requested an opinion from the Government Accountability Office’s (GAO) General Counsel on October 5, 2015. GAO’s opinion, a copy of which is also attached, was issued on June 30, 2016.

At my direction, and prior to the issuance of the GAO opinion, the Commission instituted a series of enhanced controls to prevent recurrence of the same type of violation. As recommended by the Inspector General, the Commission updated Commission Order 108, *Personal Property*, effective December 17, 2015, to address the \$5,000 limitation and establish a protocol for receiving and processing requests for items or services for the Commissioner offices to ensure the limitation was not exceeded without notification to Congress. Under the revised Commission Order, all such requests are now documented in writing and reviewed by the Director of the Office of Management Services, the office responsible for procurement. If there is any ambiguity as to whether the item or service falls within the \$5,000 limitation, the request is reviewed by the Office of the Managing Director, and, if necessary, the Office of the General Counsel. In addition, as detailed in the Commission management's written response to the Inspector General's audit report, the Office of Management Services also maintains a list of expenses incurred by each Commissioner, which is verified annually by the Office of Budget and Finance, and Commissioners are provided an annual assessment of the amount of funds expended that are subject to the relevant appropriations limitation for furnishing or redecorating their respective offices.

The Federal Maritime Commission has no record of OMB's approval of our Administrative Control of Funds policy documented in Commissioner Order 77, *Administrative Control of Funds*. The Commission Order will be updated to include guidance provided in the newly issued OMB Circular A-11, and submitted to OMB for review and approval.

The Federal Maritime Commission has imposed no disciplinary action, finding that the responsible parties had no knowing and willful intent to violate the Antideficiency Act, and have since left the Commission. Identical reports are being submitted to the President of the Senate, the Speaker of the House of Representatives, and the Comptroller General.

Respectfully,



Mario Cordero
Chairman



Enclosures