

**Comments to the Report of Investigations of  
the U.S. Commission for the Preservation of America's Heritage Abroad  
OSC File No. DI-12-3628  
Washington, DC, March 31, 2014**

Dear Mr. President, Committee Chairmen, Commission Chair:

The comments that follow continue to document my view that there is mismanagement of Federally appropriated funds and exploitation of the Federal system for what appears to be personal gain at the United States Commission for Preservation of America's Heritage Abroad (Commission). The Commission's enabling legislation gives it unusual discretion with virtually no oversight over appropriated funds. My documentation shows how the Commission has misused that appropriation authority by allowing a contractor to use Government facilities for lobbying (using government facilities for his personal business and private gain), and then billed the Government for his lobbying activities. The documentation shows how this corruption and lack of accountability have permeated the Commission in the form of the acceptance of personal gifts for Government work, the approval of unwarranted bonuses for contractors and contractor pay increases, extreme favoritism, and other abuses.

In my view the GSA IG Report misses many of these key points and fails to accurately reflect the costs of the contractors involved and conglomerate contract expenses within the Commission budget. It appears that GSA has a conflict of interest. GSA was managing the contract and payment of vouchers with some of the contract employees, in particular, the contractor lobbying using Government facilities and billing the Government for those activities, addressed in the report. GSA is responsible for defending the Commission's actions by providing ongoing legal services.

As a result of this conflict of interest, the report not only fails to make critical connections but it seems to also present conflicting information in discussing the Commission's operating budget and contractor expenses. It ignores violations of Federal Acquisition Regulations (FAR). This could have been avoided by using a team of financial auditors during the investigative process and in the writing of the report. A more complete and independent review could have been aided by a review of key Commission records that were hurriedly retired to the NARA, it seems, in anticipation of any possible investigative or legal action. The weakness of the investigative results is underscored by the absence of depositions taken under oath in the generation of this report. Under sworn affidavits individuals would be given assurances of no reprisal for their truthful responses regarding disclosing information that might be adverse for the agency. Depositions under oath would provide for authentication of the report results.

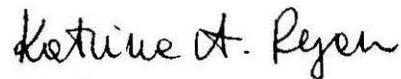
Furthermore, the report includes "Findings" but fails to make or address any "Recommendations." A more thorough investigation and financial audit by an independent team of experts with no ties to either the Commission or the GSA is required in order to address the many relevant issues that have been omitted in this report. It is important to note what is not expressly stated in the GSA IG Report.

There would be little if any need to submit these comments:

- Had the scope of work carried out by the Commission been controlled by another Federal government agency better equipped to deal with foreign policy issues, such as the Department of State. See *Attachment I*.
- Had the Commission been given proper Congressional oversight and Senate-mandated confirmation for its Chairman.
- Had Congress reviewed the law establishing the Commission to revisit the Commission's relevance within the new political geography of Europe.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Katrina A. Ryan".

Katrina A. Ryan

*Disclaimer: The information contained within is solely of the author's and based upon observations, knowledge, personal beliefs and experiences gained while working at the United States Commission For The Preservation Of America's Heritage Abroad (Commission) as a Federal employee. The comments contained within are not meant and shall not be misconstrued or utilized for any other purpose other than as intended for the purpose of completing the investigative process. Any comments, statements, citations, views, opinions expressed in this report by the author shall not be used for purposes of reprisal against the author. Any comments, statements, citations, views, opinions, conclusions, and analysis expressed in this report shall not be used by individuals whose names were referenced in the report for any purpose whatsoever. The author does not assume responsibility or liability for any and all of the content presented herein. The author's role was simply to identify the facts and provide witness-generated context and content for the sole purpose of facilitating determinations by the appropriate authorities. The material that follows is protected under the U.S. Copyright law.*

## **BACKGROUND**

The Commission is one of the smallest federal agencies, with one federal employee and three contract employees, one of them a part-time employee. The administrative staff of four employees reports to the Commission Chair. In addition, the Commission is comprised of 21 Members (one serves as Chair.) As relevant, former Chairman Warren L. Miller served as Chair from June 2001 to February 2013 and continues to serve as a Commission Member. The Associates of the U.S. Commission for the Preservation of America's Heritage Abroad is a not-for-profit accounting unit set up to accept donations from the U.S. Taxpayers and to hold and disburse a portion of the Federal funds that Congress appropriates to the Commission. The non-profit Associates and the Federal Commission are two distinctly separate entities, yet tied by financial transactions. In 2001, contractor Jeffrey L. Farrow was designated by former Chairman L. Miller for the dual-role of Executive Director of both these entities. He also is a federally registered lobbyist for the Republic of Palau and the Commonwealth of Puerto Rico under Registration Number 5938.

The matters which gave basis to and were the subject of the OSC investigation and the timeframe during which the alleged mismanagement and wrongdoing occurred predate the tenure of Commission Chair Lesley Weiss, who assumed her role on January 25, 2013.

The fact is that Ms. Weiss neither had direct knowledge nor first-hand experience of the reported transgressions of her predecessor, former Chairman Warren L. Miller and currently employed contractor Executive Director Jeffrey L. Farrow. When Ms. Weiss was appointed Commission Chair she was faced with a requirement to clean up the messy situation she had inherited and minimize the damage to the Commission.

## **Comments to the REPORT OF INVESTIGATIONS**

The following comments are provided by a Federal Government employee and witness, Program Manager Katrina Ryan. They consist of 29 pages, including Attachment I, and are intended to serve as a correction and clarification of the statements provided by Commission Chair and its contract employees. In addition to the cited facts, context has been furnished to provide for a fuller understanding and consideration of the reported misconduct of the Commission leadership discussed in the GSA IG Report. Comments have

also been made regarding the shortcomings of the Findings and the general nature of the Office of Inspector General, U.S. General Services Administration (GSA IG Report).

Comments and corrections have been prepared to the following three sources of documentation the Office of Special Counsel transmitted to the witness:

- I. November 1, 2013 Letter to The Honorable Carolyn N. Lerner, Special Counsel from Commission Chair Lesley Weiss
- II. Report of Investigation, GSA IG Report
- III. September 16, 2013 Letter to The Honorable Carolyn N. Lerner, Special Counsel from Commission Chair Lesley Weiss

These comments reference two complaints:

- 1) OSC File No. DI-12-3628 – Office of Special Counsel, Disclosure Unit, and
- 2) OIG File No. I-13-H-4520 – U.S. General Services Administration, Office of Inspector General

### **I. CORRECTIONS AND COMMENTS to the November 1, 2013 letter to The Honorable Special Counsel Carolyn N. Lerner from Commission Chair Lesley Weiss**

OSC File No. DI-12-3628 and GSA OIG File No. I-13-H-4520

The Commission's Designated Agency Ethic Official (DAEO), page 1

#### **Re. Contractor Executive Director Farrow's service as DAEO and Ensuing Problems**

It is inaccurate to state that “the Commission did not have a Federal employee who could . . . [serve as DAEO]” and had to assign a part-time contract employee to fulfill that role. It is a fact that since October 4, 2004 the Commission has had a full-time Federal government employee that was able to serve as a DAEO and that was me - Katrina Ryan. I have the necessary graduate level education, knowledge, skills, and ability to perform this function.

In addition to me being a suitable candidate for the DAEO designation, there were also 21 other “special government employees” of the Commission - who could have been at any time appointed to act in the capacity of DAEO. It appears that the judgment of former Chairman Miller should be in question as to why he decided to appoint a part-time contract employee, a registered lobbyist, contractor Executive Director Farrow, instead of designating a Federal government employee as DAEO, putting him at risk of violating Federal regulations. The report does not really address this and downplays contractor Executive Director Farrow's lobbying activity, which appears to be in conflict with the President's Memorandum of June 18, 2010 directing agencies in the Executive Branch not to appoint or re-appoint Federally registered lobbyists (Contractor Executive Director Farrow is a Federally registered lobbyist) to advisory committees and other boards and commissions.

Contractor Executive Director Farrow's contracting with the Commission appears on its face to conflict with the President's Memorandum. It would also appear to preclude him from consideration for any future position with the Commission. Specifically, there is a comment later in the report regarding contractor Executive Director Farrow's use of the Associates of the U.S Commission bank account that is used by the Commission for donating funds, contractor Executive Director Farrow used for his personal lobbying business. The comingling of Commission donated funds, with his personal and private business is an ethical violation at least - yet, the GSA IG Report does not point this out or provide a discussion of this possible ethical violation.

Separately, an unanswered question, an alarming one, is why contractor Executive Director Farrow, who does not have a contract with the Commission and has not had one in over 12 years yet still having collected approximately \$1,3M from the Federal Government through his lobbying firm(s) is still allowed to act as the Commission's Executive Director. In this role, he has exercised his executive authority over the Commission by communicating directly with the GSA IG Special Agent and senior officials at the OSC, OMB, OPM, and the Commission Legal Counsel and been permitted to influence decisions and make recommendations concerning the investigation. It is very apparent by the style of the writing that he is providing editorial assistance to Chair Weiss in responding to the allegations of his own wrongdoing. There is an inherent conflict of interest here and Congressional leadership approving the Commission's appropriations should find that fact a grave concern.

Another unanswered issue is the question by what authority does contractor Executive Director Farrow use Taxpayer money to pay for his legal defense against Federal Government? His attorney is provided by the GSA and paid for by the Commission even though this defense is needed to defend contractor Farrow's personal inappropriate use of government offices to conduct his private business and lobbying activity for his other clients.

As well there is the problem of the absence of a contract while contractor Farrow has been paid over \$100,000 per year for an extremely-part time job. Of note is the fact, that he received a compensation increase by over 50% in 2013 raising his annual income to approximately \$154,000.

The General Accountability Office (GAO) should be assigned to investigate the inconsistencies in the financial reporting, including the Commission audits. GAO specializes in expert investigation of financial reporting and is the appropriate Federal agency to issue professional level Findings and Recommendations.

Alleged Misuse of [Federal] Government Resources, page 1

**Re: Contractor Executive Director Farrow's use of [Federal] Commission office**

Since November 2001, when contractor Executive Director Farrow became the Executive Director for two entities, the Commission and the non-profit organization Associates of the

U.S. Commission for the Preservation of America's Heritage Abroad<sup>4</sup>, he has routinely and consistently used the Commission office to conduct his personal and private lobbying practice for personal gain. His use of the Federally funded government office consisted of lengthy and frequent telephone calls as well as time spent at what appeared to be a Government-owned computer writing for and on behalf of at least two of his long-term clients – the Government of Puerto Rico and the Commonwealth of Palau. I estimated that 90% of contractor Executive Director Farrow's time while at the Commission office was dedicated to his private lobbying practice rather than focusing on his Federal Government work at the Commission.

Former Commission contract employees Jessica Marfurt and Patricia Hoglund (both of whom resigned as a result of, in my opinion, the "unethical conduct" of the management) witnessed this activity. Ms. Hoglund who performed bookkeeping services for the Commission frequently shared with me her concerns about the inconsistencies in both the Federal Commission's and the non-profit Associates of the U.S. Commission's accounting practices, especially the use of Federal funds by both former Chairman Miller and contractor Executive Director Farrow for what appeared to be personal use. In her view, it was an ethical problem; I believe she resigned after being scolded about her findings related to the inappropriate use of Federally appropriated funds. [REDACTED]

To term contractor Executive Director Farrow's use of Commission office "on an incidental basis" is a gross mischaracterization and contradicts the facts. That understatement is apparently aimed at minimizing the consequences of inappropriate use of government property and funds. Because of the proximity of contractor Executive Director Farrow's office to mine and for many years adjacent to mine, I witnessed his many hours dedicated to non-Commission related business for the benefit of his private lobbying clients. And those activities always seemed to take priority over anything the Commission was working on. The term "on an incidental basis" more accurately describes contractor Director Farrow's time spent on his work for the Commission. Because of the nature of our working relationship, I was first in line to experience the anger contractor Executive Director Farrow displayed while he tried to cover the time he spent intensely drafting a legislative provision for a lobbying client, while at the same time having to make it appear as if he was working on Commission matters.

This dysfunctional work environment and mismanagement of the operations and the human capital resources gave rise to other workplace abuses. I believe that contractor Executive Director Farrow's unavailability to work on Commission matters while physically present at the Commission office caused sustained stress, unnecessary delays, loss of productivity, and

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<sup>4</sup> The Associates of the U.S. Commission's bank account's function has been to disburse donations and spend Federally-appropriated funds on payments and reimbursements to contractors. Since 2001, the Associates' account has been used to generate for Commission top officials reimbursements for dining, travel, entertaining and other discretionary expenses. Congress did not authorize the Commission to use appropriated funds for entertainment expenses. See also Background.

adversely impacted the work of the Commission. These abuses are addressed in separate complaints filed with the Office of Special Counsel Case No. MA-12-3996, and, with the Equal Employment Opportunity Commission, Case No. GSA-13-NCR-WAL-KAK-1.

Contract employee Executive Director Farrow and I, a Federal government employee, worked closely together for over 11 years and not only did he supervise me, which is a clear violation of the FAR. The FAR 5 U.S. § 3109 specifically prohibit a contractor from having any supervisory responsibilities over Federal employees or serve in the chain of command, but he also assigned my work and reviewed and approved it, even though he was scarcely available to perform these duties. This was done with the advice and consent of former Chairman Miller. Based upon the former Chairman's service as an Assistant United States Attorney for the District of Columbia, where he prosecuted felony cases as a Senior Trial Assistant, his education and experience in the Federal executive environment, he should have known this was not a proper and legal situation.

In 2002, in an apparent effort to increase his firm's revenue, contractor Executive Director Farrow assigned two people from his firm to work on the Commission's website and on editing services then billed the Commission through his lobbying firm Lisboa Inc.. The website project spanned over a year resulting in thousands of Taxpayer dollars being spent to support the bottom line of contractor Executive Director Farrow's private lobbying practice. Lisboa Inc. was awarded the contract without having to compete in the Federally mandated bidding process. If financial records of this contract still exist, they would reveal the sizeable amount that contractor Executive Director Farrow directed the Commission to spend on his own private lobbying firm's services. It is recommended that these records be located and reviewed for any potential noncompliance with Federal contracting regulations.

**Re. De minimus finding with respect to former Chairman Miller's alleged misuse of [G]overnment resources.**

As I have stated at the opening of my commentary, it appears to me that Chair Weiss has been tasked with a difficult but not impossible job of minimizing or eliminating the impact of the improper conduct of her predecessor at a Federal government office.

Former Chairman Miller's alleged transgressions do not seem to me to be in any way *de minimus*. The claim that former Chairman Miller's accountant counted less than four billable hours per month is inconsistent with the information contained within the numerous legal documents Ms. Jamie Molton typed for former Chairman Miller on a Commission computer during business hours. And it is inconsistent with my observations in a small office environment and comments made by former Chairman Miller regarding his law cases. The GSA IG Special Agent has reviewed the evidence supporting this claim residing on the Commission computer. The evidence supports that Ms. Molton had spent considerable amounts of time typing legal paperwork for former Chairman Miller's legal practice. The GSA IG Special Agent accessed the Commission hard-drive, which status would have revealed irrefutable proof of time spent working on and in support of former Chairman Miller's law practice while using Federal resources. However, the investigation report does not point to the weight of those findings.

In July of 2011, I learned that former Chairman Miller instructed his assistant to be discrete regarding the nature of what she was working on for him. Then in August of 2011, I was reprimanded for a routine use of the same computer the assistant used to type documentation for former Chairman Miller leading me to believe there was information on that computer, that I was not supposed to know about. The existence of additional evidence of this type of inappropriate activity prior to August 13, 2012 may have been compromised due to a massive electronic and hard copy files overhaul. This activity was suddenly and hurriedly initiated by the Commission following public inquiries into the financial integrity of its operations. According to the administrative assistant, she witnessed the rushed arrangements to retire Commission documents to the National Archives and Records Administration (NARA.) This means the GSA IG Report is not as accurate as it could be since the investigator did not have access to the financial and other records that were transferred to a NARA storage facility. Those records should be retrieved and investigated by a separate independent investigative entity with no ties to either GSA or the Commission.

As a “special government employee,” former Chairman Miller did not draw a salary but was entitled to per diem expenses. The Commission paid for his upgraded business class air tickets for overseas trips, five star hotels, chauffeured town cars, upscale restaurants, and sightseeing trips in Italy, France, Israel, Austria and Russia.

Under instruction from contractor Executive Director Farrow, I assisted former Chairman Miller with making arrangements for all his overseas diplomatic missions. Consequently, I noticed that there were numerous cases of potential violations of the Federal Travel Regulations (FTR). For example, the Commission management authorized and paid for business class air travel instead of economy class, chose flights on airlines that were non-contract carriers resulting in higher air fare costs, so that former Chairman Miller would accumulate the maximum number of frequent flier points and travel at a time convenient for him. Another case where it appears contractor Director Farrow violated the FTR and FAR was by approving travel expenditures and authorizing travel authorizations for former Chairman Miller. Director Farrow was in violation of the FAR 5 U.S. § 3109 by authorizing the expenditures of appropriated funds, which is a governmental function that is not performed by a contractor.

In January of 2008, the Commission moved its headquarters. The Chairman’s office was furnished with crown and chair rail moldings, custom-built cabinetry, designer upholstery, a flat screen TV, designer furnishings and fixtures. These upgrades approved by contractor Executive Director Farrow cost approximately \$100,000. This cost consumed one-fifth of the Commission’s 2007 annual operating budget of \$493,000 which is reflected in the February 2, 2009 OMB budget letter enclosed with the Report of Investigations.

Congress determined that the Commission would not be authorized to use funds from Federally appropriated funds for Official Representation expenses. Despite this legal determination former Chairman Miller entertained friends at luncheons and dinners in Washington, DC and New York City for which he received reimbursements from the Commission. Any such expenses as well as those above the allowable per diem expenses

incurred during overseas diplomatic missions would generate reimbursements for former Chairman Miller from the Associates of the U.S. Commission.<sup>5</sup> Could all this not be viewed as misuse of Government resources and use of Governmental funds for personal purposes?

In addition, I have observed that former Chairman Miller used the Commission tech support employed by MicroLab, to set up and update his personal stock portfolio on the Commission computer. I believe that she also performed IT support services on contractor Executive Director Farrow's personal business computer, including troubleshooting and the massive task of transferring of a large volume of personal business files (related to lobbying) from a Commission government computer onto contractor Executive Director Farrow's laptop computer in 2007. Invoices from MicroLab that were once maintained by Ms. Hoglund in the Commission files document these expenses. There is no certainty that these documents still exist since a large volume of Commission financial records were retired to NARA. I believe, it is no coincidence the financial records were transferred out of the Commission's office soon after public inquiries into the Commission's financial integrity. Since my employment at the Commission for the past 12 years, this is the first time to my knowledge that the Commission has ever retired its files.

**Re: the reference to [former Chairman] Miller's use of an assistant in his legal practice**

The reference to a legal assistant of many years ago is not relevant to the matter. I believe, it is merely is a deflection tactic.

Since April 2009, when Ms. Jamie Molton was hired via a temporary agency, I observed that former Chairman Miller routinely tasked Ms. Molton during business hours to type up his legal resume and numerous legal documents in support of his law practice. In July of 2011, Ms. Molton told me that former Chairman Miller instructed her to be discrete and not talk to me or let me see what she was working on for him. From that time on, it appeared to me that much of what Ms. Molton would type up for the former Chairman would be secretive. For some documents, which I believe were for the private use of former Chairman Miller, she would use a printer that was not on the network so as not to leave a record on the Commission's network printer.

In addition, in 2010, Ms. Molton assisted former Chairman Miller with his completion of online Virginia Continuing Legal Education (VLE) courses in order for him to maintain an active his legal license. That took place in the course of several days on the Commission computer. While taking credits is an acceptable use of time in some Federal offices, there was no such requirement based on his job description for former Chairman Miller to retain his law practice for the Commission. He did it purely for his private practice of law.

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<sup>5</sup> See Background and footnote 4

On May 20, 2011, Ms. Molton spent the entire workday at former Chairman Miller's Virginia residence apparently setting up his new fax machine purchased by the Commission. It is doubtful that task alone took an entire workday.

Of note is the rapid and steady incline of Ms. Molton's pay between 2009 and 2011 from \$17 hourly rate to approximately \$30 per hour coupled with a lump sum payment of \$14,306.

**II. Comments to the REPORT OF INVESTIGATION, OFFICE OF INSPECTOR GENERAL, U.S. GENERAL SERVICES ADMINISTRATION transmitted to Chairwoman Lesley Weiss by Assistant Inspector General for Investigation Geoffrey Cherrington, (pages 1-12)**

**"Basis for Investigation"**

1. Former Commission Chairman [and currently Member] Warren L. Miller improperly received gifts in the course of his duties that he kept for personal use
2. Former Chairman Miller and/or contractor Executive Director Mr. Jeffrey Farrow improperly issued bonus (lump-sum) payments to contractor Executive Director Farrow and two other Commission contract employees
3. Former Chairman Miller and contractor Executive Director Farrow used Commission equipment to conduct private businesses

**Comments to "Conduct of Investigation," pages 2-12**

**Absence of Sworn Testimonies**

The interviews the GSA IG Special Agent conducted with the Commission's current and former chairmen and staff, were just that, interviews. There is no record or reference to depositions taken under oath, just voluntary statements, which raises question concerning their reliability and self-interest motivation. More specifically, corroboration of the facts by either Ms. Roosa or Ms. Mlay would have run counter in my opinion to their self-interests because of the impending Federalization of their contract positions with the Commission. I believe that fear of jeopardizing the opportunity of a desirable Federal government position was the motivating factor for the two contract employees to side with the Commission. Judging by the results of the investigative process, another potential problem may have been the interview protocol or the relative inexperience of the Special Agent. Had the opposing party attorney conducted the interview instead, it likely would have engendered different responses.

Furthermore, one of the contract employees with greater seniority who had first-hand experience with the transgressions was not interviewed. Her testimony would have been very helpful to the investigation.

**Comments to bullet point #5, page 2 and Other Complaints Filed Against the Commission**

It is my understanding that former Commission contract employee [REDACTED], filed two complaints against the former Commission Chairman soon after she resigned. I believe she stated that she had filed a waste, fraud, abuse complaint with the GAO and a discrimination complaint with the OSC. According to [REDACTED], GAO informed her that, "the Commission's operating budget was [too] low to investigate the case, and there was not much they could do." As for the OSC discrimination case, [REDACTED] stated that, "They closed the case because of lack of documentation and because I was not a Federal employee while being employed at the Commission."

#### **Comments to "Summary of Findings", page 3-4**

*"Alleged Receipt and Personal Use of Gifts by [former Chairman and Commission Member] Mr. Miller"*

I think it is highly questionable that the numerous the gifts received by former Chairman Miller from foreign governments were of minimal value. Are there formal appraisals? Are there lists of gifts that were provided to the former Chairman and the Commission? The receipt of all gifts to former Chairman Miller since 2008 was treated with utmost confidentiality, and only former Chairman Miller's assistant Ms. Molton and Executive Director contractor Executive Director Farrow were privy to the nature of the gifts. This would apply to gifts from the governments of Greece, Italy, and Morocco and any other gifts that may not have been disclosed by former Chairman Miller. All agencies are required to file reports with the State Department on the receipt of gifts received from foreign individuals and governments each year. I do not recall that such lists or reports were prepared by the Commission. If so, how was the value of gifts determined?

Among additional items former Chairman Miller had, which were the property of the Commission, were several sets of a five-volume treatise titled "Auschwitz 1939-1945." The most recent shipment of these books was received from Poland. Also, there remains a question regarding the high cost of custom-made picture frames paid for by the Commission that former Chairman Miller used to frame pictures with dignitaries and awards he received from foreign governments. I estimate that these frames are valued at approximately \$3,000. I believe that most of them were purchased at the Color Wheel store in McLean, VA and that they were paid for with the Government credit card.

#### **Comments to bullet point #1, page 4**

Chair Weiss' role seems to be confined to transmitting information, which appears to have been furnished to her by former Chairman Miller and following his instruction on how to answer.

*"Alleged Bonus Payments [Additional Lump-Sum Payments to contractor Executive Director] Mr. Farrow, p. 5*

As noted earlier, the interviews with Commission staff were not sworn affidavits. If these testimonies were taken under oath, I believe that they would have corroborated facts I presented of the alleged wrongdoing.

GSA documentation confirms additional payments were made in 2010 and 2011 to three contract employees totaling \$23,710.62 for contractor Executive Director Farrow (via The Oliver Group, Inc.), \$17,240 for Ms. Mlay and \$14,306 for Ms. Molton. These payments were made from the Treasury account and were unsubstantiated given the apparent absence of contracts. The Commission stated that it does have funds left over at the end of each fiscal year and in order to consume them, instead of returning the funds to the Treasury, the Commission uses them up by making lump-sum payments to its contractors but not to its Federal employee.

What the GSA IG report fails to state is that contractor Executive Director Farrow used GSA forms 3025 and 300 for paying out additional lump-sum payments to contract employees, including himself. As he also acted in a capacity to authorize these payments, including for the large lump-sum payment to himself, he had an inherent conflict of interest. Seems these GSA forms were not cross-referenced against the weekly contractor invoice payments and expenses and then again cross-referenced against the Commission budget to detect discrepancies. It appears this resulted in the improper framing of the Findings in the Report of the investigation.

The GSA IG Report fails to address the fact that contractor Executive Director Farrow self-certified an inherently government function, the certification that goods and services were received by the U.S. Government. This is in direct violation of the FAR 5 U.S. § 3109. A contractor is not authorized to state on behalf of the U.S. Government, that goods and services were received by the U.S. Government, and certify his own contractor voucher for payment. The review of payment vouchers and a report on any irregularities was not done in the investigation.

Citing ignorance by both former Chairman Miller and contractor Executive Director Farrow is no credible excuse given their professional backgrounds. Officials placed in higher level positions are judged at a higher standard because of the level of trust the Government has placed in their positions. Their actions require greater scrutiny than lower level employees. Former Chairman Miller made a career in the Executive Branch of the U.S. Government. He was a former U.S. President of the Assistant States Attorneys Association for the District of Columbia lecturing on criminal law. Former Chairman Miller also served on the Board of Advisors of the School of Public Affairs at American University.

As for contractor Executive Director Farrow, with his legislative experience as a former White House official and a former member of the Senior Executive Service, a government veteran, and a lobbyist well-versed in legislating and interpreting Federal laws – pleading ignorance on this matter appears tactical, a means to deflect a case of violating the law.

The Commission's budget request submissions justify the request for extra funds to pay for conducting audits, which at \$13,000 per audit the Commission has always been able to afford. The Commission did not conduct such audits prior to 2007 but it was not questioned about this irregularity. The Commission has not been asked to explain why it did not have financial audits carried out while it had sufficient funds available for that purpose. Why has the Commission not been asked why it continued to press Congress for additional appropriated funds to supposedly cover an employer's portion of the health care benefits for

its contract employees while in reality it already had those costs covered from the existing appropriation level?

### **Comments to page 7**

In bullet #2 on Page 7, contractor Executive Director Farrow's statement regarding the Commission's contractor personnel initially holding contracts with the Associates of the U.S. Commission is incorrect. Although the Associates of the U.S. Commission paid the contract employees, there were no contracts in place with that entity. As a contracting officer, it does not appear from the record that contractor Executive Director Farrow provided evidence of such contracts to the GSA IG Special Agent. If not, what explanation was provided for not producing the contracts? Why were these questions not posed by the Special Agent?

In bullet #3, it must be noted that the invoices paid to The Oliver Group Inc. reflected the amounts only for the part-time services of contractor Executive Director Farrow's alone, and did not include cost of other contractor employees. Additionally, the statement as appears written fails to consider total reimbursements to all contract employees. For instance, contractor Executive Director Farrow's parking charges of approximately \$240 per month are omitted in recoding contractor reimbursements.

Also under this section, of note is the list of payments from 2008 to 2013, accounting for payments to contractor Executive Director Farrow, which shows what appears as an unjustified increase by 50% in his compensation for 2013 from an average of \$102,000 to approximately \$154,000 per year. On what basis was such a high increase made? In the absence of a contract with contractor Farrow, by what authority was such an exorbitant increase made, especially in light of pending allegations for his mismanagement of Federal funds and violation of FAR? The GSA IG does not discuss these circumstances.

In bullet #4 on Page 7, there is a misleading response in a document provided by the Commission in response to a Special Agent's question on the annual compensation for Commission personnel (contractor and employee). The Commission states that "The Oliver Group received weekly payments based on \$103,000/yr." However, that was not the case in 2010 and 2011 when additional payments were made to The Oliver Group, Inc. designated as "contractor labor" for \$5,885 and \$17,827, respectively. The Oliver Group's cost to the Commission for part-time work was \$111,765 in 2010, and \$123,827<sup>6</sup> in 2011 (including parking cost at 1400 K Street) for Director Farrow. In addition, there is a miscalculation in the average annual pay to contractor Director Farrow (excluding expenses) during the period from 2008-2013 where the correct amount for part-time work is \$111,500 and not as stated \$103,000. In total, over the period of more than 13 years during which time contractor Executive Director Farrow was providing part-time services to the Commission, he received approximately \$1.3M from the U.S. Taxpayers. All the while he did not have a written

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<sup>6</sup> These costs are solely for contractor Executive Director Farrow's part-time work and do not include the cost of other contract employees.

contract with the Commission, but rather a verbal agreement with former Chairman Miller for part-time work.

It must be noted that unlike his predecessor, the former Executive Director, who worked diligently to earn his salary without hiring extra contractors, contractor Executive Director Farrow hired two contract administrative staff to do a large part of his Executive Director work. This allowed contractor Executive Director Farrow time to conduct his lobbying activity, while he simultaneously collected a government paycheck for his part-time work.

The excerpted line items below were provided by former Chairman Miller to OMB in a letter dated February 2, 2009. They are accompanied by my comments to demonstrate the confusing data provided to OMB regarding compensation for contract employees and the figures cited on Page 6 and 7 of the GSA IG Report.

**Personnel Compensation and Benefits:**

	2007	2008	2009
Full-time Permanent	\$89,000	\$91,000	\$418,000 <i>A</i>
.....			
Other Contractual Services	\$183,000	\$231,000	\$131,000 <i>D</i>

An explanatory note *A* for \$418,000 corresponding to full-time permanent personnel in the OMB letter is misleading because it refers to several lines lower on the budget page to **Other Contractual Services** for costs of non-governmental staff (i.e. contractors like contractor Executive Director Farrow), and that amount is \$131,000 as seen above. However, when one looks at the explanatory note *D* corresponding to this amount, we read in the budget submitted to OMB that it actually represents the cost for auditing and a part-time researcher – and not to the costs of non-governmental staff, (i.e. costs for contractors like contractor Executive Director Farrow.)

This discrepancy reveals that additional funds are “parked” in clear view under Other Contractual Services. The amounts were shifted from another budget line to imply conversion of contractual staff to full-time Federal employees. Given the 2009 budget acceptance by OMB, it is possible other misleading statements may have been furnished by the Commission in prior years given the 2009 budget acceptance and passing seemingly without further inquiry. A review of budget submissions for prior years should be conducted in light of this irregularity. GAO analysts are highly adept at detecting these types of financial irregularities and they should be called upon to audit all financial records of the Commission, including for the period from 2001 to 2007 that was excluded from review by the GSA IG investigation. In addition to the formal budget submissions for each fiscal year, all hard-copy and electronic communications with the OMB officials should also be included in the comprehensive review to ensure compliance with the budgeting and accounting standards.

This also provides further justification to recall all of the records transferred to NARA, in order to conduct a complete and comprehensive audit and review of the Associates of the U.S. Commission account as well as all related records from beginning to end. What was

paid for, why, who was the authorizing official, etc. Why were the Associates of the U.S. Commission funds used to pay Lisboa Inc., now called The Oliver Group, Inc.? Did the Commission Enabling Legislation P.L. 99-83 authorize donated funds for this purpose? The GSA IG report is silent in this regard. How could so important a discrepancy be missed and not commented upon?

Final point - why is contractor Executive Director Farrow's paid for by the Commission indoor parking not accounted for in payments to the contractor? Were there any other contractor payments and reimbursements or perks that the Commission paid for but not included in the contractor compensation?

### **Supervisory Role of Contractor Executive Director Farrow as it relates to the Commission's Federal Employee**

Under the authorizing statute, the Commission is granted authority to procure temporary and intermittent services of experts and consultants authorized under 5 U.S. § 3109. The regulation implementing § 3109 at 5 C.F.R. part 304 prohibits agencies from using such consultants and experts to perform managerial and supervisory work, make final decisions on substantive policies, or otherwise function in the agency's chain of command. For over 11 years, I was under contractor Executive Director Farrow's supervision.

### **Conflict of Interest Having Contractor Executive Director Farrow Involved in Supplying Materials for His Own Investigation and Continued Function in the Chain of Command**

There appears to be a conflict of interest to have contractor Executive Director Farrow be responsible for obtaining documentation from GSA to support allegations made against him.

It would appear that terming invoices in a generic way as "contractor labor," even though no labor was provided for these payments, which were also outside any contracts, was a strategic measure taken by contractor Executive Director Farrow to receive extra compensation while circumventing the Federal regulations. According to documents on file with the GSA Financial Center, contractor Executive Director Farrow authorized additional payments to himself both in 2010 and 2011. These documents provide that contractor Executive Director Farrow signed invoices for his lobbying firm The Oliver Group, Inc., for \$5,885 dated September 17, 2010 and then for \$17,827 on August 8, 2011. For the purpose of these payments GSA forms 3025 and 300 were used. These lump-sum payments were vaguely termed "contractor labor" as opposed to "bonus," since as previously stated, contractor Executive Director Farrow had no contract with the Commission and hence no provision for payment of bonuses was in place. This accounting maneuver proved misleading to the GSA IG Special Agent preventing him from detecting the problem. GSA documentation for the period from 2001-2009 and 2012-2014 should be reviewed for similar additional lump-sum payments and any other payments above and beyond the weekly pay-check that was paid to contractor Executive Director Farrow's firms Lisboa, Inc. and The Oliver Group, Inc..

It appears from the GSA documents that for over 13 years not only did contractor Executive Director Farrow authorize payments to himself, he also did the same for two contract employees, Ms. Jamie Molton and Ms. Grace Mlay in at least 2010 and 2011, neither of whom had a contract with the Commission, let alone a provision for receiving bonuses or additional lump-sum payments from Federally appropriated funds. Again, as I previously stated, this is in direct violation of FAR, and the GSA IG investigator should have been aware of the violation. As per 5 C.F.R. part 304, contractors are not permitted to self-certify goods and services received by the U.S. Government and none of that was cited or addressed in the GSA IG Report.

According to the documents on file with GSA, Ms. Molton received an additional payment of \$3,930 in August of 2010, and \$10,386 in September of 2011. Similarly, Ms. Mlay received an additional payment of \$3,920 in August of 2010 and then \$13,320 in September of 2011.

GSA documentation for the period from 2002 through 2009 and 2012 through 2014 should be reviewed for similar additional lump-sum payments and any other payments above and beyond the weekly pay-check that was paid to contractor Executive Director Farrow's firms Lisboa, Inc. and The Oliver Group, Inc. and the other two contract employees.

**Regarding former Chairman Miller's Use of Commission Resources for Private Business, page 9**

Upon his request, the Commission has furnished former Chairman Miller with an iPhone, iPad, fax machine, and an Apple laptop computer all for his personal use at his home. I have observed that these were also used to conduct his private law practice. The Commission also paid for his home-based telephone landline, which was to my knowledge former Chairman Miller's only telephone number, which he would share with friends and private business partners and clients. The Commission also paid for his home-based fax line. To my knowledge, former Chairman Miller did not possess a personal cell phone and he used the Government cell phone exclusively, including for his private legal business and personal use for which documentation is on file with GSA.

Furthermore, former Chairman Miller also had a desktop Apple computer at the Commission office, which I believe he mainly used to monitor his stock portfolio. Former Chairman Miller did not type his own emails and letters. He instead dictated all emails and letters to Ms. Molton (and her predecessors) and she would type them up and print for them his review. The Commission also paid for former Chairman Miller's custom-made cabinetry, a flat screen TV, and cable TV service set up in his office as well as luxury furnishings. I believe he used the cable TV service to monitor the stock market on the CNBC channel.

In 2011, the Commission's SmartPay 2 credit card was charged approximately \$1,720 at the Color Wheel store of McLean, VA. Former Chairman Miller typically would use Color Wheel for picture developments, enlargements (Albania Parliament picture), picture and award framing. In doing so, former Chairman Miller did not conform to the FAR requirements for using a GSA-authorized vendor. I believe, the same applies to the

purchase of three or four expensive custom-made frames measuring approximately 26 by 29 inches.

As for the issue of Ms. Molton using Federal government time to type up legal documents in support of former Chairman Miller's law practice, the word processing time in the metadata of the documents she had typed reveals cumulative time spent on this activity. The GSA IG investigator accessed and reviewed this data but failed to comment on it. After former Chairman Miller gave Ms. Molton an embellished letter of recommendation and assistance in securing a job in Florida, I believe there would be little motivation for Ms. Molton to reveal such activities. Ms. Molton's pay for administrative assistance was nearly doubled in the course of two years to reach approximately \$62,000 right before she resigned. This made Ms. Molton the highest paid administrative assistant in the 28 year-long history of the existence of this small agency compared to her approximately 25 predecessors.

### **Regarding Contractor Executive Director Farrow's Use of Commission Resources for Private Lobbying Business, page 9**

Contractor Executive Director Farrow, a lobbyist<sup>7</sup>, has been using the Commission office and resources paid for by the Federal government for a private lobbying business. I had witnessed that inappropriate activity since November 1, 2001 till August 10, 2012. Current and former Commission contract employees witnessed such activity. If questioned under oath these individuals would likely affirm the fact that contractor Director Farrow was occupied with performing work for his lobbying practice clients using the Commission resources (i.e., desk, chair, computer, printer, fax, office supplies, cable TV, telephone line, utilities, and Internet connection). It was a pattern of conduct condoned and tolerated by former Chairman Miller, who himself often would describe the relationship contractor Executive Director Farrow had with the Commission as a "sweet deal". This is a classic example of using a public office for private gain but what makes it particularly reckless is to have the Federal government subsidize expenses for a lobbyist.

Given that contractor Executive Director Farrow delegated to me the work former Chairman Miller assigned, I had a first-hand opportunity to witness and interact with contractor Executive Director Farrow on a daily basis, even if some days he would dismiss me in an apparent effort to be left alone to focus on lobbying instead of, say, a cemetery preservation project for which I needed his input. It became apparent that contractor Executive Director Farrow just could not be bothered with the demands of the work of the Commission. So, we have an established pattern of behavior that I had observed and on that basis I made the assertion that contractor Executive Director Farrow devoted approximately 90% of his time while at the Commission office to conducting his personal lobbying practice that had no relationship whatsoever to the mission of the Commission as established by Congressional legislation.

Contractor Executive Director Farrow's high-profile lobbying clients for years regularly called the Commission's main telephone number. They also received faxes sent by

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<sup>7</sup> As noted in the Background, contractor Executive Director Farrow is a lobbyist for the Republic of Palau and the Commonwealth of Puerto Rico.

contractor Executive Director Farrow from the Commission's office where the sender's signature would be invisible and not trace where the fax was sent from. Any fax confirmation sheets would be immediately retrieved by contractor Executive Director Farrow from the fax machine as not to leave any trace.

It is a fact that contractor Executive Director Farrow charged the Commission for goods and services for the week of October 3-9, 2009 while he was simultaneously spending the week in Puerto Rico working on lobbying for Puerto Rico. He was a featured speaker at an event in Puerto Rico before the San Juan Rotary Club. His remarks are posted on the Internet by the Puerto Rico Democrat Corner. Has the GSA IG investigator reviewed documentation of other instances where similar activity occurred that constituted double-billing? Apart from billing the Commission for contractor Executive Director Farrow's lobbying business, his self-certifying his voucher for payment is again in direct violation of FAR.

A few documented examples follow of how contractor Executive Director Farrow used Government resources for his lobbying practice. These examples and his other use of government resources were not de minimis.

March 21, 2011, 12:15 pm - 1:20 PM – contractor Executive Director Farrow was using Commission phone to conduct a live radio interview for his personal lobbying practice. The telephone connection kept breaking up and contractor Executive Director Farrow complained to Ms. Molton at the reception desk that he had been cut off twice during a live interview. Contractor Executive Director Farrow instructed Ms. Molton to report the problem and have it resolved.

July 3, 2012 at 1:50 pm – Soon after contractor Executive Director Farrow arrived at the office, he left to make the American Airlines flight number 1219 for San Juan, Puerto Rico via Miami departing at 4:35 pm from DCA according to a copy of the boarding pass. Upon return from his trip, on July 9, contractor Executive Director Farrow authorized his own invoice for payment dated June 30-July 6. The time frame for which he billed the Commission at approximately \$2,000 overlapped his lobbying visit to Puerto Rico July 3 – 6, including a paid Federal holiday of July 4. I believe this is an example of receiving payment for his time away from the Commission office spent on private lobbying.

July 18, 2012 at 10:00 am – Soon after contractor Executive Director Farrow arrived at the Commission office he printed a massive volume of pages on a network printer, apparently for packets for a meeting on Capitol Hill regarding a legislative resolution titled HR6040. He also printed a document titled Points for a Possible Palau Issue, presumably for inclusion in a folder for House Committee on Foreign Relations. The record of these documents being printed was recorded on the network printer but that did not seem to concern contractor Executive Director Farrow. Equipped with several copies of the huge printout, presumably, draft legislation for Palau, contractor Executive Director Farrow left the office taking the extremely thick stack of papers with him. He returned to the office early evening and soon after departed for the day. (See: H.R. 6040 (IH) Continued Free Association with Palau, [www.gpo.gov/fdsys/pkg/BILLS.../pdf/BILLS-112hr6040ih.pdf](http://www.gpo.gov/fdsys/pkg/BILLS.../pdf/BILLS-112hr6040ih.pdf))

December 21, 2012 at 4:10 pm – contractor Executive Director Farrow was working on the Palau Free Association Agreement and related Bingaman Amendment 3344 to HR1. This and other contractor Farrow's lobbying activities for Palau are documented in the available online 94-pages long Lobbying Report 5938 NSD/FARA Registration Unit Supplemental Statement for six months ending 5/31/13.

Based on the above examples, a comprehensive review and audit of all records for payment, who generated them, for what purpose, what goods and services, who certified vouchers for payment, for what amounts is required. The GSA IG investigator failed to consider this and similar information handicapping his investigative report. As previously stated, the investigative audit should be conducted on all records from November 2001 through 2013 by an independent concern such as GAO.

**Comments to the Statement that Former Chairman Miller Had Limited Client Meetings at the Commission Offices, But Was Unaware This Was Not Permitted, page 9**

The veracity of this statement is in question based upon the following: Former Chairman Miller, as a member of the Virginia State Bar is required to take mandatory Continuing Legal Education courses which include legal ethics requirements to maintain his law license. Such courses include information on bar violations relating to the Government attorney's prohibitions on the use of government facilities for private practice. Further, as a longstanding government employee, former Chairman Miller should be especially aware of 5 CFR 2635, Standards of Ethical Conduct for Employees of the Executive Branch which sets forth prohibitions on employees' involvement in outside employment and the use of government equipment for such purposes. Former Chairman Miller served as a government attorney, in the position of Assistant United States Attorney for the District of Columbia, where he prosecuted felony cases as a Senior Trial Assistant. Aside from serving as a government attorney, former Chairman Miller has served at the highest levels of government. He was appointed to the Federal Executive level of government by President Ronald Reagan as a Member of the District of Columbia Law Revision Commission, on which he served for four years. He has also been President of the Assistant United States Attorney Association for the District of Columbia.

With those credentials, it is unlikely former Chairman Miller was unaware that the Commission office and equipment was only for government use. Ignorance of the law should not be attributable to a highly experienced veteran attorney and prosecutor. This alone casts a shadow on the potential integrity of the statements to the investigator. Commission presidential appointees take the Oath of Office, are required to take an ethics training and submit a Financial Disclosure Form, and are provided briefings upon acceptance of their positions, including on what they can and cannot do while they represent the Federal government. Presumably, former Chairman Miller was provided information on the accepted scope of his position, or should have sought it out, given his legal background and previous extensive government experience.

**Comments to the Statement by contractor Executive Director Farrow that former Chairman Miller Did Not Understand How Federal Agencies Operate, page 9**

Based on the high level of his position and the longstanding government service of former Chairman Miller, contractor Executive Director Farrow's statement is simply not plausible. Former Chairman Miller has been a Member of the Commission since 1992, including as its Chairman since June 2001 to January 2013 and the notion that he does not understand how Federal agencies work after 22 years of direct experience with Federal operations just does not ring true. How can a senior Federal official plead such ignorance? Former Chairman Miller appeared well informed about the various operating protocols of the State Department some of which he wanted the Commission to adopt. Frequent frustration with government bureaucracy, a topic of ongoing commentaries by former Chairman Miller, indicated he knew about the workings of Federal operations. With those credentials, it is doubtful former Chairman Miller lacked an understanding of the operating protocols of Federal agencies.

It seems sad to have contractor Executive Director Farrow make this statement rather than for former Chairman Miller who is a seasoned litigator to speak for himself. Such casual treatment of this serious issue demonstrates the Chairman's and the Director's total disregard for and contempt of the Federal process and Federal rules and regulations. And is this not the overarching problem that necessitated this investigation in the first place? In all the many years I worked with former Chairman Miller, a man who leaves no stone unturned to get to the bottom of things, he never impressed me as someone who would operate with any lapses in understanding or ramifications of anything he was involved in pursuing.

**Regarding Commingling of Personal Funds with Commission Funds in the Associates of the U.S. Commission Account, page 12**

By commingling personal funds with the Commission's Federal funds, it appears that contractor Executive Director Farrow, the Commission's DAEO has committed an ethics violation. These were funds in the Associates of the U.S. Commission for the Preservation of America's Heritage Abroad account to which funds were donated from U.S. Taxpayers based upon specific legislation. The Legislation establishing the U.S. Commission does not authorize any activities in support of Palau, however, contractor Executive Director Farrow used funds from the Associates of the U.S. Commission to make a donation to the Palau Community College Endowment Fund and the Palau Community Hospital. The GSA IG Report failed to point out that the Legislation establishing the Commission does not authorize any activities in support of Palau. Contractor Executive Director Farrow is a registered lobbyist for Palau, and as such does not have authority to direct the Associates of the U.S. Commission to donate funds to institutions in Palau.

The GSA IG Report is silent on the potential ethics violation related to contractor Executive Director Farrow's activities described above. As the agency's DAEO, contractor Executive Director Farrow is held to the highest standard. He is not the average rank and file employee whose lack of knowledge concerning legislation barring any Commission activities in support of Palau might be excused or ignored. This is another reason why the GSA IG Report is deficient - it does not include a comprehensive review of financial activities, including the Associates of the U.S. Commission.

**Requirement for a Comprehensive Audit and Review of the Associates of the U.S. Commission for the Preservation of America's Heritage Abroad Gift Account**

Based on the fact that GSA IG Report is silent on the possible ethical violation relating to the fund activities in support of Palau directed by the agency's DAEO/contractor Executive Director Farrow, there needs to be an independent audit by GAO. An independent audit and review of all invoices and expenses taken out of the Associates of the U.S. Commission account should be conducted screening also for any other activities that do not come under the authority of the Commission going back to November 2001 and recalling all records that have been sent to NARA in August 2012.

**Failure to Conduct an Interview with Mr. Oren Rawls and Conflict of Interest in Supplying Documents to Investigators**

Although there was discussion on Pages 10 and 11 of the GSA IG Report about the work being performed by Mr. Oren Rawls for the personal benefit of former Chairman Miller paid for by the Commission with appropriated funds, Mr. Oren Rawls was not interviewed by the GSA IG Special Agent. Why he was not interviewed remains unanswered. The GSA IG investigator neglected to comment on this matter.

Furthermore, it appears that not all the invoices submitted by Mr. Rawls in 2012 were reviewed by or made available to the GSA IG Special Agent. This suggests that old and hence irrelevant emails from 2009 and 2010 from Mr. Rawls to the Commission were provided to the Special Agent to divert his attention away from failing to produce the required 2011 and 2012 correspondence and invoices bearing on the proof of the alleged activity. There again exists a conflict of interest since contractor Executive Director Farrow supplied all the information, including emails from Mr. Rawls to the Special Agent. In May 2012, I managed some of the verbal communication between Mr. Rawls and former Chairman Miller and I clearly recall former Chairman Miller mentioning about having a biography written. The verification of all invoices from 2011 and 2012 from Mr. Rawls on file with GSA still remains to be performed to complete this piece of investigation.

**Failure to Accept Additional Input for the Report from Me, the Witness**

Because of the apparently short deadline to complete this investigation, the GSA IG Special Agent did not accept additional information from the witness that would aid the investigation. He also did not accept assistance with interpreting documents essential to the investigation. I was not aware of the short deadline given to conduct the investigation and seeing its scant results, I am led to believe not enough importance was assigned to this case. In my opinion, were it not for the insufficiency of time and resources to exhaustively investigate this complex matter, the investigation would have been poised to produce results supporting the numerous allegations in this complaint of waste, fraud, and abuse.

**Corrections and Comments to Attachment A – Resignation letter from Jamie Molton to former Chairman Miller dated December 16, 2011**

GSA OIG File No. I-13-H-4520

**Distortion of the Facts**

In my opinion, this letter demonstrates that in exchange for signing a letter written by former Chairman Miller, Ms. Molton would receive a glowing recommendation letter and a further reference to secure a job. On December 16, 2011, it appears former Chairman Miller had Ms. Molton write a forced-hand resignation letter to him from her complementing the Commission management and the work environment. This letter is enclosed with the Report of Investigations. According to Ms. Sarah Roosa, Ms. Molton was very reluctant to sign the letter she did not herself author. The hyperbolic language used in the letter not only contradicts Ms. Molton's real experience at the Commission, which she described to me as a "depressing place to work" but also gives into former Chairman Miller's hubris and self-promotion by calling himself an "intrepid" leader. On another occasion she stated that she "was programmed to manipulate for former Chairman Miller."

Later, I realized that this "assurance letter" was to benefit former Chairman Miller in anticipation of a formal complaint that could be made against him in the future -- just like the one I made with OSC in June of 2012. It reminded me of the attempts contractor Executive Director Farrow made with me on July 22, 2011 when he pressured me into producing a letter addressed to former Chairman Miller, providing a false assessment of the work place conditions that would negate my complaint of June 30, 2011 about the hostile work environment.

**III. CORRECTIONS AND COMMENTS to the September 16, 2013 Letter to Special Counsel Carolyn N. Lerner from Commission Chair Lesley Weiss (pages 1-8)**

Under "The Commission's Initial Response to the Referral," page 1, the letter states that the staff of the OSC and the Commission had discussions on the basis of what further investigation of the non-compliance was deemed unnecessary. There is a serious problem with how this determination was arrived at. It appears that contractor Executive Director Farrow, who was involved in the alleged non-compliance, is the same person who is referred to as "Commission staff." In my opinion, for the OSC to rely on contractor Executive Director Farrow's discussions concerning his own alleged non-compliance with Federal workplace regulations seems to constitute a serious conflict of interest by compromising the investigative process. This is indeed alarming! Any post-complaint rehabilitative action Chair Weiss may have undertaken is no excuse for discounting the validity of the allegations against the conduct of contractor Executive Director Farrow during the time predating her tenure, i.e. November 1, 2001 to January 24, 2013.

In spite of two OSC investigations and a separate EEO investigation pending against the Commission, including the allegation of inappropriate use of Federally appropriated funds, the Commission received an increase of 15% in appropriation for Fiscal Year 2014. Of note is that since 2009, the Commission has been consistently receiving annual appropriation increases, except for 2013. This may seem to be an exceptional treatment for an agency that does not have Inspector General to oversee its financial management and regulatory compliance, and that in times of fiscal austerity and spending cut backs across the Federal government, the Commission receives budget increases.

**Comments Regarding Actions Taken Point 3, Limitations on Use of Contractors, page 4**

The findings of the OSC stand, according to which, it appears that contractor Executive Director Farrow has violated the FAR 5 U.S. § 3109.

The eight months during which newly appointed Chair Weiss modified the way in which contractor Executive Director Farrow supplies his services to the Commission, has no bearing on contractor Executive Director Farrow's inappropriate use of the Commission office during the time predating Chair Weiss' tenure. It is inaccurate and misleading to state that the arrangement Chair Weiss has worked out with contractor Executive Director Farrow may have been identical to that which was used during her predecessor's tenure. Because if it were such then the problematic use of Government resources to support Executive Director Farrow's private lobbying practice would have been a very poorly executed corrective action.

There is a contradiction in the way in which contractor Executive Director Farrow described his working arrangements with former Chairman Miller. According to what he stated, he was working on an hourly basis but instead billed the Federal Commission for every work-week since November 2001. It appears, contractor Farrow who also was Executive Director of the Associates of the U.S. Commission failed to mention his working arrangements as they relate to this non-profit entity financially tied to the Commission, and the time he allocated to this responsibility. The apparent lack of transparency in explaining the payment terms for contractor Farrow's dual role of Executive Director, the absence of proper accounting for hours worked for both entities and insufficient supporting documentation raises concerns. The GSA IG Report fails to shine light on or address this important discrepancy.

**Continued ... Comments Regarding Actions Taken Point 3. Limitations on Use of Contractors, page 5**

Chair Weiss stated,

“Nonetheless, the absence of a written contract has proven to be problematic. To remedy this, on behalf of the Commission I am in the process of negotiating an appropriate contract which will set forth the terms of Executive Director Farrow's service. The contract will provide that Executive Director Farrow will serve the Commission on a part-time, intermittent schedule to be determined based on the needs of the Chair of the Commission.... I will be seeking legal guidance from OPM and GSA in the drafting of this contract.”

This remedial action proposed by Chair Weiss appears to be seriously flawed for three reasons: 1) it rewards contractor Executive Director Farrow for his past misconduct,<sup>8</sup> 2) it

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<sup>8</sup> Contractor Executive Director Farrow's compensation for part-time work was increased by 50% in 2013 by \$4,000 per month, or to approximately \$154,000 per year.

absolves Executive Director Farrow from any liability and accountability for his actions, and 3) it places an undue financial burden on the U.S. Taxpayers for paying for legal guidance to create a contract for a lobbyist. There seems to be an obvious inadequacy of the remedial actions.

For many years, contractor Executive Director Farrow had exclusive access to the OPM and GSA decision makers and because he controlled all communications with them, he was able to influence the Federal process in his and the former Chairman Miller's favor. While a contract is being worked out for contractor Executive Director Farrow, will he again be engaged in the process by exercising his political clout and harnessing the exclusive relationships he secured to broker the best contract for himself? What safeguards have been put in place to disconnect contractor Executive Director Farrow from influencing the Federal contracting process for self-interest and prevent this conflict of interest?

Based upon the existing findings of the GSA IG Report, it is apparent that there should be competitive procurement for any contracted services for all the contract employees supporting the Commission. There should be no Sole Source Contracts with the current staffing of support contractors. In addition, based upon what has already seen the light of day in this report (in addition to other ongoing investigations) and judging from past activities and lack of proper ethical judgment, contractor Executive Director Farrow should be barred from consideration or applying for any contract position or full time Federal position in the future with the Commission.

Alarming, the comments of Chair Weiss indicate that the Commission intends to maintain a relationship with contractor Executive Director Farrow in spite of his track record and violation of both ethics and FAR.

I believe that the optimum way to provide the Commission with sufficient, reliable, and knowledgeable executive leadership would be to designate a Federal agency such as the Department of State to provide such leadership, accountability, proper oversight and utilize its well established infrastructure and protocols for carrying out foreign policy objectives.

#### **COMMENTS to Appendix A – Select Email Exchanges Between Contractor Executive Director Jeffrey L. Farrow and OMB Officials**

##### **Inherent and Pervasive Conflict of Interest Exposed**

Copies of email exchanges between OMB officials and contractor Executive Director Jeffrey L. Farrow from 2004, 2009, and 2012 enclosed with the Report of Investigations by the Commission clearly demonstrate contractor Executive Director Farrow's continued internal self-interest lobbying and advocacy efforts for himself for his part-time position of Executive Director to become converted into a full-time Federal position. It appears that such an activity may constitute at least an ethical violation. The statements in these emails under Appendix A attest to the access and persuasive power contractor Executive Director Farrow has been wielding to directly influence the decision-makers at the Office of Budget and Management. Being a registered lobbyist for Palau and Puerto Rico, this process of lobbying the Government is bread and butter to contractor Executive Director Farrow.

## **ADDITIONAL RELEVANT COMMENTS**

### **Issue of Integrity of the Commission Audit Reports and Problem of Absence of Internal Controls**

I think it is imperative that the GAO conduct a comprehensive independent audit and investigation of the Commission from November 2001 through 2013, and check for transparency and integrity of the audit reports 2007-2012. The audit should deal with a comprehensive examination of every voucher for payment, certifications, purposes as well as availability of documents for conducting the audits. Given that the Commission followed unorthodox practices regarding the preparation of documentation to be audited, this matter warrants special attention.

Another problem GSA IG Report did not tackle is the lack of internal controls. The Federal Managers' Financial Integrity Act requires Executive Branch agencies to establish and maintain effective internal controls. The Commission is in non-compliance with that law.

### **Issue of Considering Contract Employees for Potential Federal Government Employment**

I believe there should be a full in-depth detailed background check done on any job candidate prior to considering them for a permanent full-time Federal government employment. Attendance record, availability to perform work, on the job track record, ethical conduct, and particular qualifications should all be the object of strict scrutiny of the current contract employees if they are to be considered for Federal employment with the Commission. Such potential pre-employment background screening should discount any personal favoritism or recommendation by either contractor Executive Director Jeffrey Farrow or former Chairman (now Commission Member) Warren Miller and any current contract employee suitability ought to be objectively determined.

In my opinion, contractor Executive Director Farrow has proven to be far too expensive for such a small Commission to afford his premium priced services. Furthermore, he has demonstrated his ineffectiveness as a manager using threats and intimidation and inability to function in a positive and collaborative work environment. I have no doubt of the ease of finding his replacement who would be more attuned with the tenets of ethical conduct.

### **Possible Reprisals for Reporting Wrongdoing by the Commission**

Based on years of work experience directly with my two bosses, former Chairman Warren L. Miller and contractor Executive Director Jeffrey L. Farrow – the first being a seasoned lawyer and the other a veteran lobbyist, a potential vendetta against me remains a concern.

When former Chairman Miller and contractor Executive Director Farrow learned I challenged their misuse of authority, they threatened me with two separate bogus investigations to force me to resign from my Program Manager position. They pressured me into what would be breaking of Federal regulations by revealing my Government computer password to contract employees and used other means available to them to threaten me into resigning.

**Conclusion**

The investigation and report was too shallow and failed to appropriately scrutinize and evaluate the claims, therefore it is wholly inadequate and must be rejected as deficient and incomplete.

END OF COMMENTS.

## Attachment I

### Supporting the Campaign to Cut Waste

#### **Purpose**

The purpose of this document is to inform the interested parties that the Commission for the Preservation of America's Heritage Abroad, one of the smallest independent federal government agencies, employing one federal employee, and, with \$690,000 in Congressional appropriation for FY14 qualifies under the Campaign to Cut Waste to be absorbed within the structure of the Department of State due to the Commission's duplicative functions with those of the Department of State.

#### **Appropriation**

The Commission is appropriated under *Department of State, Foreign Operations, and Related Programs Appropriations Act*. Salaries and expenses of the Commission are authorized by section 1303 of Public Law 99-83.

For appropriation purposes the Commission is listed under Other Commissions and Boards.

#### **Classification**

The Office of Management and Budget classifies the Commission for the Preservation of America's Heritage Abroad as a Federal Entity with no designated Inspector General. It is required to annually report to each House of the Congress and OMB.

#### **Background**

The Commission was established 1985 in response to the plea of Orthodox Jews from New York. At that time, the Communists ruled in Central and Eastern Europe restricting access to Jewish communal properties. Local and national governments often left Jewish cemeteries, synagogues, and Holocaust-related sites neglected. Desecrations and economic development on land formerly occupied by a cemetery occurred.

With the "Iron Curtain" falling down the historical and political climates have dramatically changed giving a boost to diplomatic relations and improved cooperation among the nations of the region. The countries of the region embraced democracy and with that, the rule of law, property restitution laws were enacted, Germany paid out heavy reparations to families of Holocaust victims, the governments of the countries in the region as well as numerous organizations in the United States and Europe became dedicated to preserving Jewish culture. This new reality rendered the Commission's role obsolete.

With its network of embassies and consulates throughout the world, the Department of State is far better equipped with professionals on the ground than the Commission to deal with any issues of Jewish site desecration, protection, and access. In fact, in order for the Commission to intervene in a case of a cemetery desecration, implement a preservation project, or, organize a diplomatic mission for its chairman, it is required to work through and rely upon the many

officers of the Department of State. To negotiate and enter into bilateral agreements on the protection and preservation of certain cultural properties with foreign governments, the Commission is required to seek authority from and cooperate with the State Department. In fact, on December 14, 2011 Secretary of State Hilary Rodham Clinton and Kosovo's President Atifete Jahjaga signed the Agreement on the Protection and Preservation of Certain Cultural Properties between the U.S. and Kosovo at the State Department's Treaty Room.

As demonstrated in this document, the two key functions have been carried out with crucial reliance on the Department of State. The final one, reporting on sites has, in the last five years, been reduced to publishing dated survey reports. The Commission chairman discontinued field surveys of sites, deeming them unnecessary.

The point in case is that the Department of State does not work through the Commission regarding Jewish cultural heritage site issues. The Department of State is the higher authority on this matter and handles these functions by the Office of Holocaust Envoy, the Office of the Special Envoy to Combat anti-Semitism, the Office of Educational and Cultural Affairs, the Offices of Undersecretaries and Assistant Secretaries for European and Eurasian Affairs, and Country Desk Officers supported by U.S. Ambassadors, political, public affairs, and cultural officers at diplomatic posts in 27 countries.

This overlap of programs often places the Commission in competition with the Department of State. Sometimes, it infringes on its turf, according to a senior officials of the Department of State.

### **Potential Waste, Fraud, Abuse**

Most notable was the position of power afforded by its former chairman (a former prosecutor) who for over 12 years acted without oversight by an Inspector General – as one has not been assigned to the Commission. The chairman was supported by a former White House official currently in the role of executive director (a contractor paid at premium rates without an actual contract) who is proficient in maneuvering through the legal intricacies of federal regulations. Such a condition has lent itself to irresponsible use of the agency's resources and taxpayer's money on the following frivolous expenditures:

- Business class air tickets for overseas travel contrary to federal government regulations
- Luxury overnight accommodations abroad, at times, with a spouse accompanied, incurring costs over the allowable per diem amounts
- Sightseeing of foreign sites with an excuse of surveying sites (Italy was a preferred destination)
- The use of limousines or town cars instead of taxis for meetings near the office
- The use of the government credit card for questionable agency purchases
- Travel to New York City supposedly for business with minimum agenda merely to justify two or three nights stay at a five-star hotel (NY is the former chairman's home town where he has a network of friends and family)
- Reimbursements for meals with friends and for self when unwarranted

- Expensive chairman's office furnishings and interior design enhancements that once consumed funds for replacing a carpet in the shared area
- Expensive photographic and video services at local speaking engagements solicited by the chairman
- Using the agency office to conduct meetings with law clients while spending billable hours behind closed doors as part of a personal legal practice of the then-chairman
- Using the executive assistant's time away from the work of the agency during the regular work hours to type lengthy legal documents for the chairman's clients

### **Conclusion**

The Commission is an example of misspent tax dollars. In these hard economic times "no amount of waste is acceptable" to quote President Obama, and agencies with duplicative, wasteful spending would be subject to elimination.

It is believed that while eliminating the Commission could possibly become unpopular with an influential lobby, plugging it into the State Department structure would be viewed as a proactive initiative and one elevating the importance of its mission while eliminating a wasteful and duplicative bureaucracy.

### **Recommendation**

It is recommended that the Commission for the Preservation of America's Heritage Abroad be included into the structure of the State Department such as the Office of Educational and Cultural Affairs by shifting the proportionately adjusted share of Congressional appropriation to cover one federal government employee of the Commission.\* This measure would save the taxpayer's money while cutting overlapping program outlays and consolidating the functions of the federal government under one Department.

\* Out of the Commission's four-member staff, three are contractors. The chairman (selected from among 21 Commission members) is a special government employee and receives no compensation beyond per diem reimbursements. [www.heritageabroad.gov](http://www.heritageabroad.gov)