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U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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September 20, 2011

The Honorable John P. Holdren
Director
Office of Science & Technology Policy
725 17th Street, N.W.
Washington, DC 20502

Dear Dr. Holdren:

Earlier this month, the House Science, Space, and Technology Committee held a hearing[1] to examine concerns and issues associated with interference on the Global Positioning System (GPS) signal from the proposed LightSquared LLC terrestrial broadband network related to Federal scientific activities. The Committee received testimony from a number of Administration officials who were invited because of concerns of potential interference from the LightSquared network that could disable GPS signals used for critical U.S. Government services and science missions. To prepare Members for this hearing, the Committee requested copies of comments submitted to the National Telecommunications and Information Administration (NTIA) by agencies under the jurisdiction of this Committee. Despite follow-up requests by our staff, the following agencies have yet to produce the documents requested of them: Department of Homeland Security (DHS), National Oceanic and Atmospheric Administration (NOAA), the National Institute of Standards and Technology (NIST) and the Department of Commerce (DOC). This non-compliance by Administration officials was the first of many red flags raised about the situation regarding LightSquared.

Fundraising

Several news stories have emerged identifying some questionable timing involving fundraising donations to the Democratic Party and meeting requests from LightSquared representatives to high-level Administration officials. According to one story, LightSquared Chief Executive Officer (CEO) Sanjiv Ahuja donated $30,400 to the Democratic National Committee on the same day that two other LightSquared employees contacted the White House for meetings with senior officials.[2] In a September 23, 2010 e-mail, LightSquared representative Dave Kumar wrote to Aneesh Chopra, the President's chief technology adviser:

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[1] House Committee on Science, Space and Technology hearing, "*Impacts of the LightSquared Network on Federal Science Activities*," September 8, 2011 (hereinafter SST Hearing)

[2] Fred Schulte and John Aloysius Farrell, "Emails Show Wireless Firm's Communications with White House as Campaign Donations Were Made," Center For Public Integrity, September 14, 2011

> "Hi Aneesh!...I touched base with my client Sanjiv Ahuja and he expressed an interest in meeting with you...He is going to be in DC next week for a fundraising dinner with the President." *[Attachment A]*

In another e-mail the same day, Henry Goldberg, a LightSquared lawyer wrote to James Kohlenberger, chief of staff for the White House Office of Science and Technology Policy:

> "You may recall that you met with Sanjiv Ahuja about a year ago, with Phil Falcone of Harbinger, as Phil & Sanjiv were finalizing their plans for a new wireless broadband network...Sanjiv will be at fund-raiser dinner with the President on September 30 and would like to visit with you, perhaps Tom Kalil, and Aneesh Chopra, if it is at all possible." *[Attachment B]*

Both e-mails reference the attendance of the CEO at a fundraiser for the President. As further evidence of questionable timing, about a year prior, Mr. Philip Falcone, the majority owner of LightSquared, and Mr. Ahuja met with Mr. Kohlenberger on September 22, 2009. About a week after that meeting, Mr. Falcone and his wife each donated $30,400 to the Democratic Senatorial Campaign Committee.[3]

While some may call it a coincidence, we remain skeptical that shortly after two separate sets of meetings and meeting requests one year apart, LightSquared employees made five-figure donations to the Democratic Party.

Tampering with Testimony

On September 15, a House Armed Services Subcommittee hearing[4] on the national security implications of the LightSquared proposal included testimony from General William Shelton, Commander of Air Force Space Command. In his written testimony, General Shelton summarized his concerns about LightSquared by stating, "[T]he test data collected by DoD, civil agencies, GPS industry partners, GPS receiver manufacturers, and GPS service providers all indicate the LightSquared terrestrial network operating in the originally proposed manner poses significant challenges for almost all GPS users."[5]

In a classified briefing prior to the hearing, media reports indicate that "pressed by members, Gen. William Shelton said the White House tried to pressure him to change his testimony to make it more favorable to a company tied to a large Democratic donor."[6]

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[3] *Ibid.*
[4] House Armed Services Subcommittee on Strategic Forces, "*Sustaining GPS for National Security*," September 15, 2011 (hereinafter House Armed Services Subcommittee Hearing)
[5] *Ibid.*
[6] Eli Lake, "White House Pressure for a Donor?" The Daily Beast, September 15, 2011 (hereinafter Lake Article)

According to the article, not only was the General's testimony leaked to LightSquared prior to the hearing, but:

> "[T]he White House asked the general to alter the testimony to add two points: that the general supported the White House policy to add more broadband for commercial use; and that the Pentagon would try to resolve the questions around LightSquared with testing in just 90 days. Shelton chafed at the intervention, which seemed to soften the Pentagon's position and might be viewed as helping the company as it tries to get the project launched."[7]

Although we understand that OMB routinely reviews testimony presented by Administration officials to Congress, the fact that a four-star Air Force General was "chafed" by the suggestions made in this case raises concerns about the appropriateness of the White House's suggestions.

These concerns are further enhanced by our observation of identical language in the conclusion portion of Administration witnesses' written testimonies submitted to our Committee for our September 8 LightSquared Hearing.[8] The language, which specifies it reflects the Administration's view, softens the otherwise blunt assessments that were articulated during the hearing.

We were also troubled to note a softer tone toward the LightSquared project in the Administration officials' written testimonies when compared to the technical assessment they submitted to NTIA. Specifically, the Department of Transportation official made no reference in his written testimony for our September 8 hearing about how "GPS safety enhancements are expected to prevent the loss of approximately 800 lives over the next 10 years, with an estimated public safety benefit of about $5 billion."[9]

Sugarcoating testimony over critical matters that include the lives of Americans is irresponsible, and inevitably raises questions about the Administration's priorities.

Muzzling Officials

Media reports also raise concerns that the allegations involving General Shelton and his testimony, along with the fingerprints of the White House on the written testimonies submitted for our Committee hearing, may be the rule and not the exception relative to the Administration's support for LightSquared. As one story reports;

> "According to Washington sources familiar with the complex political wrangling, the White House — to which the NTIA reports in matters of spectrum allocation — is trying

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[7] *Ibid.*
[8] SST Hearing, *supra*, note 1
[9] Letter from Mr. Joel Szabat of DOT to Mr. Karl Nebbia at NTIA, July 21, 2011

> to keep discussion and decision making about the issue behind closed doors. 'Guidance from the White House' on the issue, which includes the mandate that officials 'cannot attack LightSquared,' is how one source characterized the administration's effort."[10]

Given the high stakes of the issue, it behooves us to consider every allegation or claim made about the manner in which the LightSquared project is being handled by this Administration, particularly when there appears to be a difference between what the Administration says and does. In a 2010 memo you wrote to the heads of executive departments and agencies, you said:

> "Scientific progress depends upon honest investigation, open discussion, refined understanding, and a firm commitment to evidence. Science, and public trust in science, thrives in an environment that shields scientific data and analyses from inappropriate political influence; political officials should not suppress or alter scientific or technological findings."[11]

Any effort on the part of the Administration to control what agencies determine about the LightSquared proposal would be of grave concern, and further highlights the need for transparency so that we may judge for ourselves whether these allegations are meritorious.

Lack of Transparency

We were not the only Committee to encounter resistance in our request for information, as mentioned earlier in this letter, by the denial of documents from DHS, NOAA, NIST, and DOC. During the House Armed Services Subcommittee hearing, Chairman Turner made a point to highlight Federal Communications Commission (FCC) Chairman Julius Genachowski's refusal to testify at the hearing, saying, "[I]t appears to be symptomatic of a disregard by the Chairman to the consequences of the FCC's January 26 waiver to LightSquared."[12]

Further, the FCC has ignored multiple requests from Senator Chuck Grassley for additional information. Specifically, "In April, Grassley asked Genachowski to hand over all records of communications, including emails between Falcone and the FCC, and LightSquared and the FCC. Genachowski declined to turn over those records."[13]

The reluctance of witnesses to testify and agencies to provide information does nothing to promote the case for LightSquared, nor does it put our minds at ease about the possibility that this Administration may be providing special favors to high-level financial donors. Further,

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[10] Glen Gibbons, "FCC May Require Further Tests on LightSquared Interference to GPS (or Maybe Not)," Inside GNSS News, September 2, 2011

[11] Office of Science and Technology Policy, "Scientific Integrity Memorandum for the Heads of Executive Departments and Agencies," December 17, 2010.

[12] House Armed Services Subcommittee Hearing, *supra*, note 4

[13] Lake Article, *supra*, note 6

these actions contradict the words of President Obama, who, in a 2009 memo on scientific integrity to the heads of executive departments and agencies, said:

> "The public must be able to trust the science and scientific process informing public policy decisions. Political officials should not suppress or alter scientific or technological findings and conclusions. If scientific and technological information is developed and used by the Federal Government, it should ordinarily be made available to the public. To the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policymaking."[14]

Lessons From Solyndra

Recent events surrounding the downfall of solar-panel maker Solyndra, which could cost tax-payers approximately $535 million, further emphasize our concerns about a pattern by this Administration to grant preferential treatment toward donors. As with the LightSquared project, questions about the Solyndra deal include whether Solyndra wasn't scrutinized closely because a major investor in the business was a significant fundraiser for the President's 2008 campaign.[15] That the project was rushed seems pretty clear according to the following news report:

> "Even after Obama took office on Jan. 20, 2009, analysts in the Energy Department and in the Office of Management and Budget were repeatedly questioning the wisdom of the loan. In one exchange, an Energy official wrote of 'a major outstanding issue' -- namely, that Solyndra's numbers showed it would run out of cash in **September 2011**."[16]

We find it troubling that the Administration either did not know, or did not care, that the Securities and Exchange Commission initiated an investigation last year into Mr. Falcone for a questionable loan worth $113 million from his hedge fund.[17] After taking everything presented in our letter into consideration, we believe we have no choice but to exercise our oversight authority in this matter and request the following documents:

(1) All records (as defined in Attachment C) between Mr. Phillip Falcone and any OSTP employees.
(2) All records (as defined in Attachment C) between any employees of Harbinger Capital and any OSTP employees.
(3) All records (as defined in Attachment C) between any employees of LightSquared and any OSTP employees.

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[14] The White House, "Scientific Integrity – Memorandum for the Heads of Executive Departments and Agencies," March 9, 2009.
[15] Neela Banerjee and Jim Puzzanghera, "Solyndra Executives Back out of Congressional Hearing," Los Angeles Times, September 14, 2011
[16] Megan McArdle, "Solyndra Gets More Scandalous," The Atlantic, September 14, 2011 (emphasis added)
[17] Matthew Goldstein, "Falcone Pays Back Hedge Fund Loan," Reuters, March 21, 2011

(4) All records (as defined in Attachment C) between any employees of firms under contract with Mr. Phillip Falcone, Harbinger Capital or LightSquared and any OSTP employees.
(5) All records (as defined in Attachment C) between any employees of OSTP and the White House related to Mr. Phillip Falcone, Harbinger Capital or LightSquared.
(6) All records (as defined in Attachment C) between OSTP employees and other federal agency employees regarding Mr. Phillip Falcone, Harbinger Capital or LightSquared.

In responding to our request, please provide a Vaughn Index for any redactions or documents withheld from us. Specifically, for each redaction and document withheld on the basis of an established and accepted privilege, please provide a log containing the following information:

(1) the privilege asserted;
(2) the type of document;
(3) the general subject matter;
(4) the date, author, and addressee, and
(5) the relationship of the author and the addressee to each other.

If you have any questions, please have your staff contact Mr. Tom Hammond, Staff Director, Subcommittee on Investigations and Oversight at (202) 225-6371. We would appreciate a reply from you by October 7, 2011.

Sincerely,

Rep. Ralph M. Hall
Chairman

Rep. F. James Sensenbrenner
Vice Chairman

Rep. Paul Broun, M.D.
Chairman
Subcommittee on Investigations
and Oversight

Rep. Sandy Adams

Rep. Dan Benishek

Rep. Randy Hultgren

Rep. Randy Neugebauer

Attachments

cc: Kathryn Ruemmler
Counsel to the President

Rep. Eddie Bernice Johnson
Ranking Member
Committee on Science, Space,
and Technology

Rep. Donna Edwards
Ranking Member
Subcommittee on Investigations
and Oversight

Henry

-----Original Message-----
From: Henry Goldberg
Sent: Thursday, September 23, 2010 3:46 PM
To: (b)(6)
Cc: (b)(6)
Subject: Re: Sanjiv Ahuja

Thanks very much; have Karrie give me a call.

----- Original Message -----
From: Kohlenberger, Jim (b)(6)
To: Henry Goldberg
Cc: Pitzer, Karrie S. <(b)(6)>
Sent: Thu Sep 23 15:38:03 2010
Subject: RE: Sanjiv Ahuja

Henry –

Great to hear from you. I keep hearing great things about Light2.

I'll ask Karrie to see what may be possible schedule wise.

Jim

From: Henry Goldberg [(b)(6)]
Sent: Thursday, September 23, 2010 11:30 AM
To: Kohlenberger, Jim
Subject: Sanjiv Ahuja

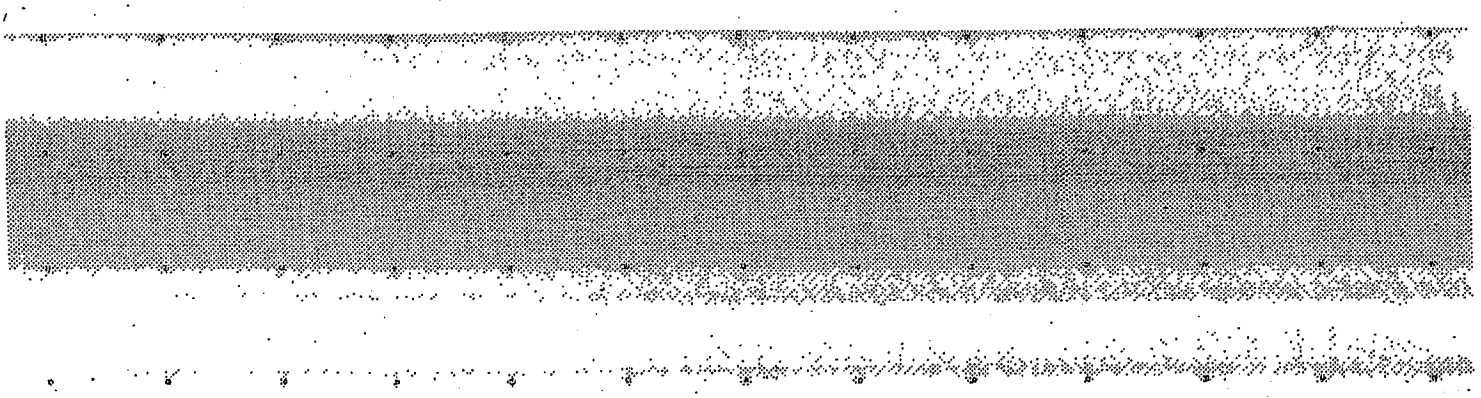
Jim,

It's been a while; I hope that you are well. You may recall that you met Sanjiv Ahuja about a year ago, with Phil Falcone of Harbinger, as Phil & Sanjiv were finalizing their plans for a new wireless broadband network, which – after an arduous FCC approval process – has become the LightSquared network currently being built. Their website (http://www.lightsquared.com) has the complete story plus good background on Sanjiv, who not only is doing Light2, but is actively engaged in bringing the benefits of wireless to East Africa, Bangladesh, and other developing regions through his Augere Holdings company (http://www.augereholdings.com/).

In any event, Sanjiv will be at fund-raiser dinner with the President on September 30 and would like to visit with you, perhaps Tom Kalil, and Aneesh Chopra, if it is at all possible.

Thanks, I hope to see you soon.

Henry



Chopra, Aneesh

From: Dave Kumar [(b)(6)]
Sent: Thursday, September 23, 2010 6:38 PM
To: Chopra, Aneesh
Subject: FW: Sanjiv Ahuja

Hi Aneesh! Thanks for your response earlier this week to my e-mail from last week.

FYI, I touched base with my client Sanjiv Ahuja and he expressed an interest in meeting with you -- he's actually probably more interested in talking about his projects to deploy broadband in underserved overseas markets, including South Asia, and was particularly interested in meeting with you after hearing about your recent trip to India. He is going to be in DC next week for a fundraising dinner with the President, and, per the e-mail below, was hoping to meet with you, Jim Kohlenberger, and/or Tom Kalil if at all possible given your schedule. I just thought I'd give you a little more context if you get this request via Jim.

I hope that you're over the jet lag and that all else is well.

Dave

Devendra ("Dave") Kumar
Partner
Goldberg, Godles, Wiener & Wright
Phone:(b)(6) (Main number)
(b)(6) (Direct dial)

----- Original Message -----
From: Kohlenberger, Jim <(b)(6)>
To: Henry Goldberg
Cc: Pitzer, Karrie S. (b)(6)
Sent: Thu Sep 23 15:38:03 2010
Subject: RE: Sanjiv Ahuja

Henry -

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I'll ask Karrie to see what may be possible schedule wise.

Jim

From: Henry Goldberg (b)(6)
Sent: Thursday, September 23, 2010 11:30 AM
To: Kohlenberger, Jim
Subject: Sanjiv Ahuja

Jim,

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to , the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.

2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.