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House of Representatives

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ONE HUNDRED TWELFTH CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

April 26, 2011

The Honorable John Boehner
Speaker of the House of Representatives
United States Capitol
H-232 The Capitol
Washington, DC 20515

Dear Mr. Speaker:

We learned yesterday through press accounts of a decision by the law firm of King & Spalding to withdraw from its engagement to represent the House regarding the Defense of Marriage Act (DOMA). It is abundantly clear that “inadequate vetting” of the contract occurred not only at King & Spalding, as its chairman admitted in withdrawing from the contract, but also in the Congress whose Members were unaware a contract had been signed. We are particularly concerned, as the Democratic Members of the Committee on House Administration, that we were not informed of such a contract nor given the opportunity to review its provisions, including the as much as \$500,000 cost.

Your spokesperson, Brendan Buck, confirmed that the attorney who had been assigned the case by King & Spalding, Paul Clement, has now joined Bancroft PLLC and will continue to represent the House in the DOMA litigation. While The Hill newspaper states that “Buck said the structure of the House contract on the case will stay the same, meaning Congress will pay as much as \$500,000 in legal fees to Bancroft,” we presume that a new contract for these services will have to be signed since the original contract was between the House and King & Spalding.

If a new contract is to be signed, we are requesting that all members of the Committee on House Administration have a full opportunity to review and raise questions about its provisions. The questions that were raised by Leader Pelosi on the issues of transparency, cost, and ethical considerations regarding the earlier contract with King & Spalding in her letters to you of April 18 and April 20 continue to be pertinent both to the original and to any proposed successor contract, and we would appreciate your answers to those questions.

In addition, we request the following information:

TIMELY NOTIFICATION

The King & Spalding statement made clear that preparations for their withdrawal occurred last week. When was your office informed of their plans to withdraw—and when were you planning to alert the Democratic Members of this Committee and the Bipartisan Legal Advisory Group (BLAG)?

TERMS OF TERMINATING PRIOR CONTRACT AND TERMS OF PROPOSED CONTRACT

What arrangements or terms did your office and/or any House entity under your direction make with respect to the termination of the King & Spalding law contract? Were any fees paid for work already completed by King & Spalding? Please provide the Committee with the proposed new contract which it appears would similarly obligate at least a half million dollars of taxpayer resources to the services of Mr. Clement and the Bancroft law firm. Are any other firms proposed to be engaged for professional services?

HOUSE FUNDING SOURCES

How much of the cost will be borne by the budget of the House General Counsel? This Committee is aware that the office of the General Counsel does not have \$500,000, let alone the millions of taxpayer dollars which may be required to defend at least 12 DOMA-related lawsuits. If funding for the contract is reprogrammed or transferred from another source, what is that source and what is the approval authority?

ETHICS REVIEW

Will the new contract be reviewed by the Ethics Committee, particularly in regard to whether any restrictions on lobbying by members of the new firm should apply to the Republican Leadership and any provision which would provide discounted services to the House?

We should be creating jobs for the American people, not spending half a million taxpayer dollars – and likely much more – defending discrimination. To the extent that the Republican leadership of the House continues to focus on expending taxpayer resources on litigating DOMA rather than focusing on our nation’s urgent needs, the highest standards of transparency, accountability, and ethics must be adhered to.

We look forward to your answers.

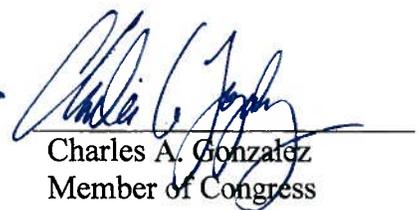
Sincerely,



Robert A. Brady
Member of Congress



Zoe Lofgren
Member of Congress



Charles A. Gonzalez
Member of Congress