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BY E-MAIL

October 7, 2016

TO: Commission on Legislative, Judicial and Executive Compensation

FROM: Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: FOIL Request: The Commission's Solicitations to Academia – & its Responses

Pursuant to Public Officers Law, Article VI [Freedom of Information Law /F.O.I.L.], request is made for:

- (1) all letters/e-mails that the Commission on Legislative, Judicial and Executive Compensation sent to academic institutions and/or scholars soliciting expert opinion on issues of compensation; and, if these were generic form letters/e-mails, all lists and other records showing the names of the academic institutions and scholars to whom they were sent and the dates;
- (2) all written responses received thereto, as well as in response to oral outreach.

The pertinent discussion about this, at the Commission's April 25, 2016 meeting, was as follows:

[transcript: pp. 6- 9]

Commissioner Hedges: ...one of the sets of issues that really is central here, particularly as it relates to the commissioners and their compensation is, we don't really have a proper framework. One of the places that we could go and I would recommend that we go, is to those places where we have experts in this field. The field of executive compensation in the public sector is well studied. All of the schools of public administration, public affairs throughout the country, look at it. We've got some very distinguished schools in the state that do that kind of thing. And, so, my recommendation there would be, let's go to the deans of the prominent schools and ask them either to personally or if not personally perhaps recommend someone on their faculty who is an expert to come and talk to us about what they see those issues as being.

- Chair Birnbaum: ...
Is your thought to invite them to submit written material, invite them to show up at a hearing?
- Commissioner Hedges: I think it would behoove us to reach out to them and find out what they are willing to do. We're asking them for their help, so if written testimony is the way they would like to go, that's perfectly fine. We've certainly allowed that in other situations already. And, if any of them are willing to come and talk to us, that would be great.
I mean, the obvious candidates here are, you know, the dean of the Rockefeller College, in SUNY Albany, the dean at NYU Wagner School, the Dean at Syracuse Maxwell School, the dean of Public Affairs and International Affairs – I think that's the proper grouping – Columbia, the CUNY Graduate Center, Baruch. Those are the places that, in my own background, that, I was familiar with. I'm sure there are others. But, at the very least, those people.
And, what I would like to do is, reach out to them, see if we could persuade them to come talk to us or submit written testimony and be helpful here, because I think the issue set is part of it, I think the actual recommendation is part of it. They may feel more comfortable, as individuals, talking about the issue set and how to recommend sorting through it, than the specific facts. But, either way, they would be helpful and I think it would behoove us to make sure that we have done our best to make them comfortable in coming to talk to us.
- Chair Birnbaum: Roman, we'll draft an invitation letter. All commissioners can review it. And, if you have – anybody, have any other suggestions?
- Commissioner Lack: Yes, I would add on Wagner and the IMR school.
- Commissioner Hedges: I had forgotten about. Yes, absolutely.
- Chair Birnbaum: Okay. We'll do both. We'll give you a list of schools and if you have any additions, let us know and we'll also draft a letter if you have any suggestion.
- Commissioner Hedges: ...And, then, I guess to finish that big picture thought, I'm partly interested in their actual recommendation, but I'm just as interested in them helping us structure our thinking about what recommendation we make. And, particularly, the academics who study this in the public sector, that's something that that they work on very hard and I think that their recommendations and thoughts would be extremely valuable.

Chair Birnbaum: We'll definitely reach out. And, hopefully we can get further information. ...

At the Commission's next meeting, on June 28, 2016, there was further colloquy on the subject:

[transcript: pp. 3-5]

Commissioner Hedges: ...One small point as it relates to largely executive. We have tried to reach out to academics and not been terribly successful. From the correspondence that we've all been receiving, we do have a couple of recommendations for a couple of more academics to try and I understand that we have not yet reached out to try to get ahold of them.

I think it would be useful to make sure that we have at least done that outreach and found out whether they are willing or not. And to my way of thinking, the place where they're going to be most valuable is in how it thinks about the executive compensation.

So, I would like to make sure that we've allowed for time to make that outreach occur and whatever returns we're going to get we get. If we're not going to get any, we can certainly recognize that and move on but I'd like to at least conclude that if we could.

Commissioner Reiter: The only thing I can say is we've done a lot of outreach. We've all been disappointed with the lack of information that's been coming from academia. While there are certainly experts we can still try to reach out to, I don't know that I would allow that to delay our beginning a serious discussion of executive pay....

So, I'm fine with reaching out to the others. We can always allow that to inform final decisions but I certainly think we're at a point now with almost July 1st when it's time to sort of get moving and start to hear from people up here what they think about this and maybe at least put some parameters in place.

Chair Birnbaum: I agree with Fran's approach with this. We'll certainly reach out and see if we can do something on this timetable. Unfortunately, academics, the months of July and August don't go together very well with work but we will and we will tell them that there are short deadlines and see if we can get any more information...

At the Commission's July 26, 2016 meeting, the results were discussed in comment that included:

[transcript: p. 2]

Chair Birnbaum: ...we had asked again at our last meeting to see if we could get certain professors and others who are academics in the field to respond to our inquires and thanks to our staff – and we thank you for following up on that – we did get some responses which have been helpful.

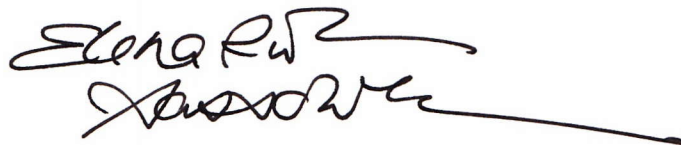
...

Commissioner Hedges: I am really pleased that Mindy was as diligent as anyone could be and rounded up a couple of people who had interesting things to say...

The “couple of people” appears to be literally two: Peverill Squire, Ph.D, from the University of Missouri, and Neil Malhotra, Ph.D., from the Stanford Graduate School of Business, whose written submissions to the Commission, dated July 22, 2016 and July 25, 2016, respectively, were the only ones discussed at the Commission's July 26, 2016 meeting and which then, as now, are the only ones from academia posted on the Commission's webpage of submissions.

Pursuant to Public Officers Law §89.3, your response is required “within five business days” of receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org.

Thank you.

Handwritten signature of Elena Ruz in black ink, consisting of a stylized first name and a surname.