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STATE OF NEW YORK

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PUBLIC MEETING

Commission on Legislative, Judicial and Executive  
Compensation,

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New York City Bar Association  
42 West 44th Street  
New York, New York  
April 25, 2016

B E F O R E:

- SHEILA BIRNBAUM, ESQ.
- MITRA HORMOZI, ESQ.
- HONORABLE JAMES LACK
- FRAN REITER
- GARY JOHNSON, ESQ.
- ROMAN HEDGES, Ph.D.
- HONORABLE BARRY COZIER

CHERYL-LEE LORIENT  
CAROLYN BARNA  
SENIOR COURT REPORTERS

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Proceedings

MS. BIRNBAUM: Good morning. This is going to be a meeting of the Commission on Judicial Executive and Legislative Compensation. This is a sort of process procedural meeting to figure out what we have already done and where we are going. All of the commission members are here. Thank you all for your prompt attention and attendance.

Just to bring everyone up to speed, we have had hearings in New York and in Albany. We were supposed to have a hearing in Syracuse, which was canceled, because no one had signed up for it.

There's some suggestions, from a number of people, that, they wanted us to have a hearing in Rochester. We have been looking for a date for that hearing so that we could get, at least, a substantial number of the commission members there.

I think where we are is, we would like to have that hearing in Rochester done by video, if we can, because we think it would make it more efficient and would not cause the taxpayer a lot of money in travel. So, we will be announcing, on our website, a date for the Rochester meeting, probably, in late May or early June by video. And, we invite all of those in Rochester, who would like to testify, to, please, sign up to do so. So, we will post that date.

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Proceedings

Shortly after this meeting, we'll put together our calendars and come up with a meeting in which most of our commissioners can attend. So, I think that would take care of the meetings. Any other hearings?

I think some of the commissioners would like to get additional information that we do not have. We have gathered up a great deal of documentary information about salaries, both executive and legislature, in various parts of the country and we are going to continue to review all of that literature. Does any of the commissioners have thoughts about what other, either intonations or anything else? Yes.

DR. HEDGES: One of the things that was said in our hearing, held in Albany, I believe, was that we should be looking at questions that relate to the relationship between executive compensation and those people that those executives supervise.

As we relate to the issue of compensation for commissioners, particularly, it seems to me that that's an important insight; and, so, there are some things that we should do just to gather that information, whether we go to the comptroller who certainly has that information and routinely makes it publically available or we go to the civil service commission or similar

1 Proceedings

2 people, I think, either way we should get information  
3 about the State agency commissioners and the people  
4 that are, sort of, their immediate subordinates.

5 I would be in favor of making that limited to  
6 the people who are, sort of, the salaried folks. Not  
7 because I have a particular bias, one way or the other  
8 there, but that's an easy point of comparison and  
9 doesn't have the complication of "There was an  
10 emergency that caused a hourly worker to work  
11 overtime." That kind of screws up the calculation and  
12 it makes it difficult to assess things.

13 But, certainly the comptroller would be a  
14 person we could go to for that information.

15 MS. REITER: I, actually, have it. I would  
16 make it available. I recently received that  
17 information. I requested it from the executive. And,  
18 I have some spread sheets that I will be sending to all  
19 of you that will give you exactly that. It has all of  
20 the commissioner's salaries, their first, their  
21 executive deputy commissioner's, who are, usually, the  
22 ones, I believe, if I remember correctly -- because  
23 I've only glanced at them so far -- I believe the  
24 deputy commissioners. It would be a rare occurrence if  
25 they were higher. It's, usually, the exec dep. But,  
26 there are probably some instances where that's the case

1 Proceedings

2 as well. We'll be able to look at that direct  
3 comparison.

4 Just to add to Roman's concern, the other  
5 thing we have to look at, is that, unless, in what we  
6 finally decide, unless we build into some mechanism for  
7 ongoing increases, which can be done many ways, we'll  
8 end up right back where we were, where we are now,  
9 because if the commissioner's salaries remain stagnant,  
10 versus their deputies, who get periodic increases,  
11 we're going to end up with them making more money  
12 again. So, you know, I think we need to consider that  
13 as well.

14 HON. LACK: Is there a way to do that? It  
15 seems to me under the four year commissioner rule,  
16 that, that stands and we're the first one, we can set a  
17 raise within the four years. But, in my experience, I  
18 haven't looked at it in years, all those commissioner's  
19 salaries are set forth in dollar amount. By dollar  
20 amount, in statute, as a finite number, without any way  
21 to change it. And, I don't know what power we have to  
22 rewrite statute as opposed to changing the number,  
23 which is the only thing we've been given is to change  
24 the number. By the way, philosophically, I don't  
25 disagree with you at you. In other words, in several  
26 years this would all be passé anyway. I mean, that's

1 Proceedings

2 understood.

3 MS. REITER: It may, only to take them, just  
4 comes down to a recommendation.

5 HON. LACK: Yes. By the way, even I, who  
6 has spent many years there, I don't know why we write  
7 commissioner's salaries and statute, but long before  
8 any of us were alive, this State decided to do it and  
9 that's what we are living with.

10 MS. BIRNBAUM: So, what you're saying is, we  
11 could determine commissioner salary and increases of  
12 four years?

13 HON. LACK: Correct.

14 MS. BIRNBAUM: And, after that, it would be  
15 another commission or a changed contract?

16 HON. LACK: Same way we did for Judges, yes.

17 DR. HEDGES: To take that same thought a  
18 step further, one of the sets of issues that really is  
19 central here, particularly as it relates to the  
20 commissioners and their compensation is, we don't  
21 really have a proper framework. One of the places that  
22 we could go and I would recommend that we go, is to  
23 those places where we have experts in this field. The  
24 field of executive compensation in the public sector is  
25 well studied. All of the schools of public  
26 administration, public affairs throughout the country,

## 1 Proceedings

2 look at it. We've got some very distinguished schools  
3 in the state that do that kind of thing. And, so, my  
4 recommendation there would be, let's go to the deans of  
5 the prominent schools and ask them either to personally  
6 or if not personally perhaps recommend someone on their  
7 faculty who is an expert to come and talk to us about  
8 what they see those issues as being.

9 Certainly, obvious things are, you know, the  
10 comparability of comparables, inflation and how long  
11 it's been since the last time these people got a raise  
12 is another piece. We've already talked about the  
13 problem that we're aware of, of subordinates getting  
14 paid more than the people who are their supervisors.  
15 Presumably, that's another issue those same people  
16 could address. We would have our own facts at that  
17 point. Another obvious point --

18 MS. BIRNBAUM: Before you leave that, Roman.

19 DR. HEDGES: Yes.

20 MS. BIRNBAUM: Is your thought to invite  
21 them to submit written material, invite them to show up  
22 at a hearing?

23 DR. HEDGES: I think it would behoove us to  
24 reach out to them and find out what they are willing to  
25 do. We're asking them for their help, so if written  
26 testimony is the way they would like to go, that's

## 1 Proceedings

2 perfectly fine. We've certainly allowed that in other  
3 situations already. And, if any of them are willing to  
4 come and talk to us, that would be great.

5 I mean, the obvious candidates here are, you  
6 know, the dean of the Rockefeller College, in SUNY  
7 Albany, the dean at NYU Wagner School, the Dean at  
8 Syracuse Maxwell School, the dean of Public Affairs and  
9 International Affairs -- I think that's the proper  
10 grouping -- Columbia, the CUNY Graduate Center, Baruch.  
11 Those are the places that, in my own background, that,  
12 I was familiar with. I'm sure there are others. But,  
13 at the very least, those people.

14 And, what I would like to do is, reach out to  
15 them, see if we could persuade them to come talk to us  
16 or submit written testimony and be helpful here,  
17 because I think the issue set is part of it, I think  
18 the actual recommendation is part of it. They may feel  
19 more comfortable, as individuals, talking about the  
20 issue set and how to recommend sorting through it, than  
21 the specific facts. But, either way, they would be  
22 helpful and I think it would behoove us to make sure  
23 that we have done our best to make them comfortable in  
24 coming to talk to us.

25 MS. BIRNBAUM: Roman, we'll draft an  
26 invitation letter. All commissioners can review it.

1 Proceedings

2 And, if you have -- anybody, have any other  
3 suggestions?

4 HON. LACK: Yes, I would add on Wagner and  
5 the IMR school.

6 DR. HEDGES: IMR I had forgotten about.  
7 Yes, absolutely.

8 MS. BIRNBAUM: Okay. We'll do both. We'll  
9 give you a list of schools and if you have any  
10 additions, let us know and we'll also draft a letter if  
11 you have any suggestion.

12 DR. HEDGES: Just to make sure we, kind of,  
13 done our homework, I think the information that Fran  
14 has just offered is great and really important. I  
15 think, for context, we should make sure that we've got  
16 in everyone's hands information about the obvious  
17 points of comparison, that are things like the median  
18 salary in the private sector for the people in  
19 Downstate New York, for New York City, for Upstate New  
20 York, so that we've got those points of comparison as  
21 well. Those aren't the obvious, "That's what they  
22 should be pegged to," but that's part of the context  
23 that we should be using in determining what it is that  
24 we are recommending, not because executives are paid  
25 the same as the median salary, but because it's  
26 relevant to the work that we are doing.

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Proceedings

I think when we've talked in the past, I've raised the question of whether we should be looking to add SUNY and CUNY faculty as a point of reference. And, partly, based on the reaction that I got here and partly just on further reflection, I'm not sure that, that's the relevant point of comparison. I think these are different kinds of positions than medical doctors in the SUNY, and I think that there are different kinds of points of comparison than the academic superstar that we occasionally find here and there at CUNY and SUNY. So, I would recommend that we drop that.

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.

MS. BIRNBAUM: We'll definitely reach out. And, hopefully we can get further information. Anyone else? Yes, sir?

MR. JOHNSON: I understand Roman's last amendment in regards to CUNY and SUNY, but coming

1 Proceedings

2 currently from CUNY, I think it could be relevant, at  
3 the very least, to look at the presidents in the CUNY  
4 and the SUNY systems.

5 Obviously, there are going to be faculty  
6 members who will be outliers, who make obviously more  
7 than those presidents, but you do have CEOs in those  
8 systems that I think would give us, at least, some  
9 point of reference for what they do.

10 MS. BIRNBAUM: I'm sure we could gather that  
11 information. Any other information that any of the  
12 commissioners think we need in order to start moving  
13 forward into a decision making mode? I want to have  
14 everything we can possibly have.

15 DR. HEDGES: I don't know how easily it is  
16 that we could get our hands on it, but insofar as we  
17 could get, in similar kind of form, the commissioners  
18 in the City departments, I think that would be useful  
19 as well.

20 MS. REITER: Would that not have been in the  
21 report that was submitted to us?

22 MS. BIRNBAUM: Yes, that, actually, in the  
23 report from Fritz Schwarz's Group.

24 DR. HEDGES: I thought that, that was like  
25 four or five years old.

26 MS. REITER: No, this happened last year.

## 1 Proceedings

2 MS. BIRNBAUM: Yes, only if it's their  
3 recommendations. We could move from their  
4 recommendation. That was passed by the City counsel.

5 DR. HEDGES: Right. Okay.

6 MS. BIRNBAUM: But, we'll get you that.

7 HON. COZIER: Yeah, I think we just need the  
8 current levels. Those were the recommendations, but,  
9 in fact, they weren't all accepted.

10 MS. BIRNBAUM: Some changed.

11 MS. REITER: They, actually, want more.

12 HON. COZIER: Yes. We would like to get the  
13 current salaries for the executives and the  
14 commissioners of New York City.

15 MS. BIRNBAUM: We could easily get that.

16 HON. COZIER: We probably should do it for,  
17 look at, Westchester and Long Island as well.

18 MS. BIRNBAUM: Okay. Anything else that  
19 anybody can --

20 MS. REITER: The only thing I wanted to say  
21 is that, I would recommend that, regarding whatever we  
22 end up doing on legislative salaries, that, we not do  
23 anything until after the end of this legislative  
24 session. I know that my thinking on this is going to  
25 be informed, to at least some extent, on whether or not  
26 we see any new ethics legislation coming out of this

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Proceedings

session. Right now, it doesn't appear that, that would be the case, but we don't know. So, it is still early.

MS. BIRNBAUM: Does anyone have any other thoughts on that issue as to timing? I think, at this point, here, it's unlikely that we're going to have all the information on the hearing in Rochester. The information that Roman was asking us to reach out for, probably, we won't be in a position to have everything until then anyhow. So, it just may work that way, whether we planned it or not.

So, then, I guess the next thing would be and we don't have to pick the date right now, but if before people leave, we can determine a meeting in June to talk about decisions or the beginning of decisions for the latter part of June, I would imagine, and maybe setup also a meeting in July so that we have it on our calendars, if we're going to need more than two meetings, to go through our decision making. Does that make some sense as far as timing then?

(Whereupon, the following proceedings were stenographically recorded by Carolyn Barna.)

## Proceedings

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MS. BIRNBAUM: Which then would mean that we would come out with a report maybe in August?

DR. HEDGES: What is your thinking as to when the Rochester hearing would be?

MS. BIRNBAUM: I think what I would like to do is, we're in April, is to do something towards the middle of May.

DR. HEDGES: I know that when we were trying to figure this out before, we ran into all sorts of many difficulties.

MS. BIRNBAUM: Yes. I think if we can go back to the Board maybe after this meeting while we're all here with our calendars and then it may be easier for some people, if we're not physically going to Rochester, where people might be able to come to another place, whether it's Albany or Albany and New York, where we could be part of the hearing without traveling. That might make it easier for people's calendars.

So, I don't want to take up the time right now, but we should, right after this meeting, try to pick all of these dates that we have while we're all together and we will get them posted immediately so everybody is aware of them.

## 1 Proceedings

2 DR. HEDGES: And the only other observation  
3 I would make then is I wouldn't want to be too  
4 aggressive in our public statements as to when we  
5 think we're going to have all of this to the points  
6 of decision because it seems to me that our  
7 scheduling problems as we go forward here are going  
8 to be substantial and we ought not to leave the  
9 impression of false urgency in schedule and then  
10 disappoint people.

11 MS. BIRNBAUM: Yes, I totally agree with  
12 that, and thank you for reminding me that what we're  
13 trying to do is set up some dates so that we can have  
14 them on the calendars to go through the decision-  
15 making process. How long that will take, I don't  
16 think anybody really knows at this point.

17 We have had no discussions about, you know,  
18 where we're going to land up or, so I think we should  
19 take with a grain of salt we may not come to a final  
20 decision in July, August, or September. We have  
21 until November --

22 HON. LACK: 15th.

23 MS. BIRNBAUM: -- but we'll start the  
24 process and we will see where the process takes us.

25 Any other thoughts for the meeting? Okay.

26 Any questions from our audience?

1 Proceedings

2 Well, thank you. And we didn't think this  
3 was going to be a long meeting, but I think we will  
4 have a date that we will publish on the web site as  
5 to further meetings, including the deliberative  
6 meetings, and we will stand adjourned.

7 Thank you.

8 HON. LACK: Thank you.

9 (Whereupon, the record is closed.)

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13 This is certified to be a true and accurate  
14 transcription of my stenographic notes.

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17 CHERYL-LEE LORIENT

18 SENIOR COURT REPORTER

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21 CAROLYN BARNA

22 SENIOR COURT REPORTER  
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