

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
OFFICE OF THE SENIOR VICE PRESIDENT-COMPLIANCE AND AUDIT



1111 Franklin Street, 5th Floor • Oakland, California 94607-5200 • (510) 987-0479 • FAX (510) 287-3334

Sheryl Vacca  
CHIEF COMPLIANCE AND AUDIT OFFICER

February 23, 2009

Charles Schwartz  
Professor Emeritus  
University of California, Berkeley  
[Schwartz@berkeley.edu](mailto:Schwartz@berkeley.edu)

Re: Selection of General Investment Consultant for Regents September 17, 2008

Dear Professor Schwartz:

I write to advise you that the University's investigation into the allegations you raised concerning the process of selecting the Regents' General Investment Consultant in September 2008 has concluded. The issues you identified are as follows:

- Is there a conflict of interest or appearance of a conflict of interest in appointing Mercer Investment Consulting, Inc. (Mercer IC) to serve as General Investment Consultant to The Regents given that a sister organization, Mercer (US) Inc. (Mercer US) serves as the University's compensation consultant and has been involved in design of the Annual Incentive Program (AIP) for officers and staff in the Office of the Treasurer as well as review and restructuring of executive compensation policies and practices?
- When The Regents took action on the appointment of Mercer IC as the General Investment Consultant in a closed session of The Regents Committee on Investments September 17, 2008, should the meeting have been held in open session?

The Conflict of Interest Issue

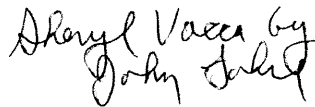
Our investigation revealed that the Office of the Treasurer of The Regents identified the possibility of a conflict of interest or appearance of a conflict once Mercer IC became a finalist in the selection process last summer. That office appropriately consulted with the Office of the General Counsel and requested that Mercer propose steps to address the issue. On July 7, 2008, Mercer sent a letter offering to undertake several steps which we believe adequately addressed any conflict of interest or appearance issues. We have verified that the promised steps were put into effect and were also advised that the Office of the Treasurer plans to evaluate the efficacy of those steps periodically. A copy of the July 7 letter is attached for your reference.

The Open Meeting Act Issue

The basis for designating the September 17, 2008 Committee on Investments meeting as a closed session was listed as California Education Code § 92032(b) (4): matters involving investments. This determination was considered appropriate at the time it was made, prior to the meeting. However, we have subsequently reviewed the draft minutes for that meeting and believe that in this instance, the discussion which actually took place went in a direction which arguably should be publicly disclosed. It should be noted that, after that meeting, the full Board of Regents took action on the recommendation of the Committee on Investments in open session.

We are therefore providing you a copy of the draft September 17, 2008 meeting minutes. We must stress that at this point the minutes have not yet been approved by the Committee on Investments. We expect that Committee to take action on this draft at its next meeting following the one set for tomorrow. Thank you for bringing these matters to our attention and if you have further questions, please feel free to contact my office.

Very truly yours,



Sheryl Vacca  
Senior Vice President

cc: Executive Vice President Lapp  
General Counsel Robinson  
Chief Investment Officer Berggren  
Secretary Griffiths  
University Counsel Thomas  
Director Lohse