

## MINUTES

### HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

September 8, 2010

The Higher Education Student Assistance Authority (HESAA) Board held a meeting by conference call on September 8, 2010 at 10:00 am from the HESAA offices in Hamilton.

**PRESENT:** Mr. Michael Angulo, Esq.; Mr. Richard Garcia; Ms. M. Wilma Harris; Dr. Harvey Kesselman; Mr. Julio Marengo, Esq.; Ms. Jean McDonald Rash; Ms. Rossy Matos-Miranda; Mr. Jonathan Nycz; Mr. Warren Smith; Ms. Nancy Style, Treasurer's Designee; Ms. Maria Torres Ms. Kristy Van Horn; and Wilmot Wilson members.

Also participating via teleconference were David Reiner, Esq., Governor's Authorities Unit, Cheryl Clark DAG and Dr. Robert Messina, Burlington County Community College.

**ABSENT:** Mr. Edward Graham.

#### CALL TO ORDER

Chair Garcia called the meeting to order at 10:03 am and stated that the meeting had been noticed in compliance with the requirements of the Open Public Meetings Act.

Mr. Garcia welcomed the Board members.

He advised that no members of the public have registered to speak.

Mr. Garcia asked the Board Secretary to call the roll.

Roseann Sorrentino called the roll.

#### **RESOLUTION 12:10: RATIFYING ENGAGEMENT OF PASHMAN STEIN, P.C., PAYMENT OF COSTS INCURRED AND PAYMENT OF FUTURE COSTS TO REVIEW HESAA OPERATIONS RELATIVE TO THE NJ OIG REPORT**

Mr. Joel Mayer, Chief Compliance Officer, presented the resolution.

Following the May 18, 2010 issuance of the Report by the Office of Inspector General (OIG), the Higher Education Student Assistance Authority was confronted with the potential downgrade of its credit rating. Any downgrade would have increased the cost of capital, increased the interest rate charged to students, and made it more difficult to market the corresponding NJCLASS bonds. Specifically, a one notch downgrade in HESAA's bond rating would result in an additional cost of capital of between \$1 million to \$1.4 million per year over the 15 year average life of the bond, totaling between \$15 million to \$21 million. These additional costs would have been incurred by students through higher interest rates. HESAA's ability to compete with the federal PLUS loan would have also been negatively impacted. These adverse consequences would have created a financial hardship on both the Authority and, more importantly, the

students and families that rely on the NJCLASS program as an affordable option to meet the costs of higher education.

Ultimately, after participating in numerous conference calls and responding to questions from its rating agencies, a downgrade was averted. However, the Report, which remains available on the internet despite the elimination of the Office of Inspector General, will continue to jeopardize prospective bond transactions with the possibility of ratings downgrades and/or the application of stricter stress testing scenarios. Moreover, the constructive discussions that took place between HESAA and the ratings agencies could not be easily referenced or transferrable if personnel or ratings agencies varied in the future.

In line with its fiduciary duty to protect current and future HESAA bondholders and borrowers, HESAA initiated a review of the Report's contents. Among the fundamental components of this review is to obtain an objective, external opinion of HESAA's operations related to the Report's conclusions. Such an opinion would, among others, memorialize the underlying factual record, address the Report's contents, rectify errors, and specify actions taken; thereby providing prospective reassurance to ratings agencies/bond investors/borrowers, and supporting HESAA's strong bond rating and venerable reputation. Additionally, an external opinion would mitigate the potential for litigation by bond holders who may question the sufficiency of the Authority's response to the Report.

To ensure that the external review is unimpeachable, it was necessary to ensure that it is performed by a firm with impeccable credentials and previous experience in conducting high level, complex governmental or institutional reviews and/or monitoring. This type of service is highly specialized and not generally available in the marketplace. HESAA reviewed the list of law firms pre-qualified by the New Jersey Office of Attorney General to provide legal services to public entities, including independent authorities. After considering the firms on the list, the law firm of Pashman Stein PC was identified based on former New Jersey Supreme Court Justice Gary Stein's extensive experience in conducting complex institutional investigations, including an eight month management review of UMDNJ in 2006. Due to time sensitivities and the need to ensure factual integrity, HESAA promptly engaged Pashman Stein on June 3, 2010. The retainer calls for a 22% reduction in Justice Stein's standard hourly rate, and a 10% reduction in the standard hourly rates of any other participating attorney. Consequently, Justice Stein's rate will be \$525/hr, and the firm's other attorneys' rate will vary between \$247.50/hr to \$495/hr. To date, HESAA has paid \$32,374 for services rendered. It is anticipated that the review can be completed within the next week or so. It should be noted that no State appropriated dollars are being used in this engagement.

Historically, pursuant to its enabling statute, N.J.S.A. 18A:71A-5, HESAA's Executive Director is authorized to retain professional services without Board approval. However, in an effort to increase the HESAA Board's involvement in Authority operations, outside legal counsel procurements will now be submitted for Board approval. HESAA also believes doing so will foster additional benefits consistent with best practices.

It is recommended that the Board approve the attached Resolution 12:10 – Approving Continued Retention of Pashman Stein, P.C. for an Independent Review of the NJ OIG report on the Higher Education Student Assistance Authority.

Motion to approve the resolution was made by Wilma Harris and seconded by Harvey Kesselman.

Kristy Van Horn initiated discussion regarding which State agency would now be charged with duties regarding this report to which Michael Angulo explained the Office of Inspector General has been folded into the State Controller's Office.

Dr. Kesselman questioned how long the report will remain on the web, and whether the HESAA review, once completed, can be posted on line. Michael Angulo responded that HESAA can look into that.

Dr. Messina questioned whether HESAA has taken actions recommended by the OIG report such as preparing an Annual Report to which Michael Angulo responded that HESAA has taken such actions. Dr. Messina further questioned why this Resolution was not raised at the time of retention to which Michael Angulo explained that there was not a meeting scheduled at that time. It was necessary to retain a firm as quickly as possible in case the firm needed to speak with the OIG as well as to ensure that all HESAA staff interviewed provided contemporaneous information to the firm.

Resolution 12:10 was adopted by roll call with one no vote by Nancy Style.

## **ADJOURNMENT**

Chair Garcia announced the next HESAA Board meeting will be held on Wednesday, October 20, 2010 at 10:00 am. A motion to adjourn was made by Harvey Kesselman and seconded by Rossy Matos.

The meeting adjourned at 10:30 am.



**State of New Jersey**

OFFICE OF THE GOVERNOR  
PO Box 001  
TRENTON, NJ 08625-0001

CHRIS CHRISTIE  
*Governor*

September 17, 2010

Via Electronic Mail and UPS Overnight Mail

E. Michael Angulo, Executive Director  
Higher Education Student Assistance Authority  
4 Quakerbridge Plaza  
P.O. Box 540  
Trenton, NJ 08625-0540

RE: Minutes of the Higher Education Student Assistance Authority  
September 8, 2010 Meeting

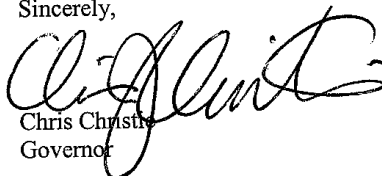
Dear Mr. Angulo:

I have reviewed the minutes of the September 8, 2010 meeting of the Board of the Higher Education Student Assistance Authority ("HESAA"). In accordance with the authorization contained in N.J.S.A. 18A:71A-6b, I hereby return the minutes with a veto of the Board's approval of Resolution 12:10, which ratified the engagement of Pashman Stein, P.C., ratified payment of costs incurred, and authorized payment of future costs to review HESAA operations in light of the report issued by the Office of the Inspector General regarding HESAA. The engagement ratified by the Board set Justice Stein's hourly rate at \$525 per hour and set other attorneys' rates at between \$247.50 per hour and \$495 per hour.

This engagement was entered into without soliciting proposals and bids from other firms. Instead, Pashman Stein, P.C., was handpicked by HESAA staff, and the unilateral decision to engage the firm was only presented to the Board for approval over three months after the engagement, and after \$32,374 had been paid for services rendered. Going forward, professional services contracts such as this should be competitively bid.

No veto power is exercised as to any other action taken by the Board at its meeting of September 8, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Christie". The signature is fluid and cursive, with a large initial "C".

Chris Christie  
Governor

c: Richard Garcia, Chairperson  
Deborah L. Gramiccioni, Director, Authorities Unit