

In The Matter Of:
Commission v.

February 22, 2016

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E COMMISSION ON LEGISLATIVE, JUDICIAL
D EXECUTIVE LEGISLATION.

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New York City Bar Association
42 West 44th Street
New York, New York
February 22, 2016

P P E A R A N C E S:

SHEILA BIRNBAUM, ESQ., Chairwoman

HON. BARRY COZIER

GARY JOHNSON, ESQ.

MITRA HORMOZI, ESQ

FRAN REITER

HON. JAMES LACK

ROMAN HEDGES, Ph.D.

Michael Barfield
Tal Hahn
Official Court Reporters

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2 MS. BIRNBAUM: Good morning, everyone.

3 This is a meeting of the Commission On
4 Legislative, Judicial and Executive Compensation.

5 It is Monday, February 22, 2016 at 11 a.m.

6 I would like to thank all the commissioners
7 for being present for our introductory meeting to the
8 second phase of our activities, to look at legislative
9 and executive compensation, having completed our first
10 phase, I must say on time, and I thank all the
11 commissioners for their interest and great work.

12 This is a meeting to determine what and how
13 we are going to accomplish our second phase.

14 The interesting thing is I am presiding -- I
15 am Sheila Birnbaum -- and I have no vote in this. I
16 am just the presider.

17 MR. LACK: Thank you for continuing in that
18 capacity.

19 THE COURT: Thank you very much.

20 So I think I would like to start out by
21 asking the commissioners if they have any thoughts
22 that they want to talk about up front about the
23 Commission's second phase of its work. We will then
24 talk about possible hearing dates, when, where, and
25 what data and research that the Commission would like
26 to see in order to assist it in doing its work and

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2 coming to a conclusion.

3 Why don't we start at one end or the other.

4 If any of the commissioners want to make any
5 statement or make any comment?

6 DR. HEDGES: No.

7 MR. LACK: I have some comments to make,
8 only because I really don't know what our basis is to
9 go ahead.

10 Probably, I think, we will need some -- I
11 think need some research, specifically with respect to
12 the executive compensation, department heads, et
13 cetera.

14 I think we should distribute to each member
15 of the Commission the full statutory list of
16 department heads that we are talking about and their
17 current values, keeping in mind that these values are
18 now, by January 1st, 2017, 18 years old. The last
19 raise was enacted on December 18, 1999 by the
20 legislature -- 1998, effective January 1, 1999. So it
21 will be 18 years since they have had a raise.

22 Now, in addition to those statutory
23 department heads I think we should also get the list
24 of their senior staff people, deputy commissioners,
25 counsels et cetera. Because in the way of all the
26 things, once these poor people who haven't had raises

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2 for 18 years finally get a raise, and obviously it is
3 not going to be a 3% raise, their deputies, for all
4 these years, some of whom I assume have gotten raises,
5 and I don't know what their values are, are certainly
6 going to be looking to fill the gap between whatever
7 their values are and the new department-head salary.
8 We don't set those, but we in fact are doing that.

9 We, in effect, will be setting the
10 governor's salary, although constitutionally we don't
11 do that. Because by raising the salary of the
12 Attorney General and the Comptroller, one assumes, at
13 least in my 24 years of legislative experience it has
14 always happened, that the legislature by joint
15 resolution, which is what it has to do under the
16 Constitution, will raise the salary of the Governor
17 and the Lieutenant Governor. So we have to be able to
18 consider that, as well.

19 Our enabling legislation also says we are
20 supposed to look not only at things like inflation,
21 but in areas like academia for competing values.

22 And I was somewhat surprised to see, Roman,
23 an old colleague of yours, Bob McKenna, who was, I
24 think, deputy in Ways and Means, as you are all these
25 years, and a very, very capable guy of course, became
26 the governor's budget director, has now taken a

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2 position with a fancier title, Senior Vice-president
3 of Finance, in effect Budget Director, of one of the
4 constituent state universities, happens to be the one
5 from my old senate district, Stony Brook, in which his
6 salary is \$400,000 a year.

7 Now --

8 MS. REITER: Good for him.

9 MR. LACK: I think that's great.

10 By the way, he is not only very smart, he is
11 now brilliant.

12 And it is within the pension system.

13 But, you know, he is over twice what the
14 Governor of the State of New York currently makes.

15 The new Senate Majority Leader, since he is
16 my successor, that's his district as well, in Stony
17 Brook, and the Speaker, that's his alma mater, and
18 they are now full time in their jobs, that's more than
19 300% of what they make. So somebody is missing
20 something.

21 I have nothing against very large values in
22 the SUNY system for SUNY professionals, by that I mean
23 deans of medical schools, provosts, named professors,
24 publications up the ying-yang. But this is an
25 administrative job in the SUNY system which several
26 people at this table, not necessarily me, I am way out

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2 of it, but certainly Roman, are certainly qualified to
3 do at a huge salary.

4 So I think we should inquire of SUNY of
5 senior administrative-type values, what they are in
6 the SUNY system, as something else for us to look at
7 as we ponder these other types, these other types of
8 increases.

9 Next, looking at the legislative values we
10 could just do a simple inflation or we can look at
11 other things, as well, if, first of all, there is a
12 legislative session going on. As I read in the
13 newspapers, the governor is calling for a limitation
14 on outside income. Whether or not that will happen or
15 not, none of us know.

16 The session will go through June, I assume.
17 He will first try to do it as part of a budget
18 package, by April 1st, and if that is not successful
19 in something that emanates towards the end of the
20 session. That should give some consideration to us as
21 we consider legislative values.

22 Then there is -- we should also get the
23 information that New York City developed for that
24 rather gigantic salary increase that the New York City
25 Council just got.

26 Of course, we have no power to override the

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2 Constitution. The legislature under the Constitution
3 is a part-time job, but who knows what's going to
4 happen during this legislative session, although there
5 have been public sentiments, at least of the Senate,
6 that they don't want a full-time legislature. I don't
7 think the Assembly said anything one way or the other
8 publicly, as opposed to some private comments by
9 members of the Assembly. But who knows what develops.
10 Of course, that's a multi-year situation.

11 But if something develops that a resolution
12 is passed for first passage this year, that's
13 something we should look at because we consider raises
14 for the next four years which would be after second
15 passage. And then although it is subject to
16 referendum, I don't think we much have to worry about
17 the results of that, at least from all the polls that
18 I have looked at. So we should get some information
19 on that as well as to where we are going to go.

20 And hypothetically, while we can't invade
21 the Constitution, I am just throwing this out, and I
22 have not talked to anybody about it, certainly nobody
23 in the legislature, can we set up a bifurcated system
24 in which legislators announce that this is their
25 full-time job, and they earn salary X, by a filing
26 that they give to the respective secretaries of the

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2 Assembly and the Senate, and therefore earn X. If not
3 filed, they earn Y. Obviously a lesser number than X.

4 So I don't know if anybody in the
5 legislature is at all interested in that, but at least
6 it is something that we could explore and go on from
7 there.

8 As well, we have to also look at if there is
9 going to be something like a full-time legislature we
10 need to consider how things like per diems and that
11 type of thing works. Also, how to handle the issues
12 as they now exist. Is that something we want to get
13 involved in or not? But to develop information on
14 that.

15 As I said, there is a lot of research.

16 I think that has to be done on a comparison
17 basis to see where we are.

18 And, of course, we are going to have a range
19 of public hearings in which we are going to get input
20 from, I assume, around the state, of people who have
21 questions. And that in and by itself might produce
22 even more for us to look at.

23 So I think we have a full range of work to
24 look at. I am just sorry it has been 18 years.

25 Unlike our judicial thing where there was a
26 basis of the Federal District Court salary, whether

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2 you wanted it as it was, like I did, or a percentage
3 of it, like Fran was talking about, it was working off
4 of the same number one way or the other. We don't
5 have that here. So we are sort of all in an
6 exploratory area that we have -- no one in the state
7 has ever been in before. So it is interesting.

8 THE COURT: Thank you.

9 Fran?

10 MS. REITER: The only thing I would say is I
11 agree with Jim that we need -- there is a lot of
12 research that has to be done to inform all of us as to
13 how we are going to want to proceed.

14 So one of the points Jim made regarding the
15 legislative values, we don't know the parameters of
16 the legislative job at this point, what it may be --

17 MR. LACK: Correct.

18 MS. REITER: -- at the end of the
19 legislative session.

20 The end of the legislative session is in
21 April.

22 MR. LACK: That's not true. The end of the
23 legislative session is in June.

24 MS. REITER: Is in June, rather.

25 The budget will be --

26 MR. LACK: Some people always say it is

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2 April. I totally agree with you.

3 MS. REITER: So --

4 MR. LACK: But that's not necessarily true
5 either.

6 Unless the opinions of the Attorney General
7 have changed -- Mitra, you might know that better than
8 me -- you could pass resolutions until August and
9 still be counted as the first passage of a legislative
10 constitutional change.

11 And believe me -- look, Governor Cuomo has
12 been fantastic. Which is why -- no offense to him, he
13 has taken the job at Stony Brook -- he would have been
14 a great budget officer. He has all these budgets done
15 on time for the years he has been there.

16 But my point is I spent many years in the
17 legislature in which we didn't do budgets until August
18 in which we were heavily considering things of meaty
19 weight, and surely how the legislature acts as on
20 subjects of meaty weight weigh way into August. I
21 grant you this year it won't be after August, it is a
22 campaign season, but --

23 MS. REITER: Okay.

24 MR. LACK: -- until the constitutional date,
25 which would be August something or other, I think that
26 is still something under consideration.

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2 Sorry. I didn't mean to interrupt you.

3 MS. REITER: The point I am trying to make
4 is that this is fluid. And we don't -- if we had all
5 of this comparison information, all of this research
6 in front of us right now, we still wouldn't know what
7 it was we were defining. Right?

8 We may know at some future date in this
9 process. We may not know. We may have a good idea.
10 We may know what's being discussed.

11 The only point I am making is that I could
12 foresee a situation where we have a series of initial
13 public hearings, we look at all the research that's
14 gathered, and then we wait and we wait and see where
15 this process is headed. Because what each of us may
16 feel comfortable recommending as a part-time salary
17 may be irrelevant if in fact the legislature decides
18 to go full-time.

19 MR. LACK: Can I say one thing, one piece of
20 research I forgot?

21 That is I have read surveys, usually done by
22 newspapers, of X number of legislators who, based on
23 their filings, are full-time or not earning outside
24 income. So we also have to have somebody look at the
25 2013 filings of the legislature as to the number with
26 outside income. Because I see all different kinds of

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2 numbers.

3 Again, my apologies for interrupting you.
4 But that's right to your point as to how many, quite
5 frankly, are full time now, at least financially, as
6 opposed to the Constitution.

7 Sorry again.

8 MS. REITER: I am just saying that I think
9 the notion that we are going to have a couple of
10 hearings down here, upstate, and then we are done, I
11 think is unlikely. Because I think that before we
12 can reasonably come up -- each of us come up with our
13 own notion of what would be the right thing to
14 recommend could change radically as a result of the
15 actions of others. So to an extent we have to let
16 this play out.

17 I could see us having a series of meetings
18 and then not doing anything for a couple of months and
19 then coming back together again based on what happens
20 during the session. And which may or may not be
21 sufficient to inform us.

22 Subsequently, we are going to have to do
23 something. But in an effort to do something that's as
24 relevant as we possibly can to what the situation is,
25 I just wouldn't rush this.

26 The second thing we had discussed very

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2 briefly, and certainly no decision had been made, but
3 we had had discussions about the nature of the public
4 hearings since we were now going to be going upstate,
5 as well.

6 I see that Syracuse has dropped off --

7 MS. BIRNBAUM: No, it hasn't. We just don't
8 have a date for it yet.

9 MS. REITER: Okay.

10 MS. BIRNBAUM: Where the third place should
11 be, either Syracuse or Rochester or Buffalo.

12 MS. REITER: But my point being that we had
13 talked about it so that we didn't have to do excessive
14 traveling.

15 And we have two distinctly different things
16 that we have to deal with here, executive and
17 legislative, and the executive is not as fluid as the
18 legislative situation is. We talked about maybe a
19 format like we do a morning hearing on one and
20 afternoon hearing on the other so we don't have to
21 keep going back.

22 I just put that out there. I thought that
23 was a reasonable approach. It might make for some
24 very long days. Although my suspicion is the
25 executive compensation public hearings will not be as
26 active or as well-participated in as the legislative

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1
2 will.

3 MR. LACK: I think you are absolutely
4 correct.

5 MS. REITER: But I thought that was a good
6 idea that I think you raised, Madam Chairwoman, and
7 makes sense to me.

8 MS. BIRNBAUM: We will get to a discussion
9 of that. That's definitely on the agenda.

10 MS. REITER: Other than that, I think the
11 only observation I will make is that we will look at a
12 lot of data and we will make comparisons to other
13 situations.

14 You raise my good friend Bob Bennett has a
15 new salary. And because SUNY -- and by the way, the
16 values and the administrative costs of SUNY and CUNY
17 are now coming under much greater scrutiny. So I am
18 not sure that that's not going to change as a result
19 of the politics of it and the ongoing discussions that
20 are going to be had during this budget season. And
21 the Governor has certainly shined a spotlight on it.
22 So I suspect that that issue may be dealt with, as
23 well, having nothing to do about what we are doing.

24 I would just state for the record that I
25 think that if you start looking at things like
26 executive compensation, not-for-profits and things

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2 like that, you run the risk of conflating two things
3 that really aren't the same; that public sector
4 values, and ours, are incredibly low. So it is not
5 what I am suggesting.

6 And I know firsthand what the horrors are of
7 trying to manage a state agency where the commissioner
8 is paid less than the four people who report to him or
9 her. So that is something that we clearly have to
10 take a look at.

11 I agree with Jim that looking at the three
12 or four highest-paid people in an agency is something
13 we absolutely should do. I just throw out there that
14 people who go to work in government, there is an
15 expectation, it should be on their part, and also I
16 think on the part of the taxpayers, that public sector
17 values are different and are generally lower than one
18 is going to find even in the not-for-profit sector.

19 So I think it is good to look at those
20 things. I am just not sure to the extent to which
21 that kind of research should necessarily inform where
22 we end up.

23 MS. BIRNBAUM: Thank you.

24 MS. REITER: I have been both. I ran
25 not-for-profits. I made far more running
26 not-for-profit. And I was worth every penny of it. I

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2 had large budgets and great responsibility.

3 I had greater responsibility as a public
4 servant, far greater, and dealt with far more money,
5 but I had no expectation that I would be paid in
6 government even what I was paid to run a fairly major
7 not-for-profit.

8 MS. BIRNBAUM: Okay.

9 Let's move on and get other comments and
10 then we can go back.

11 DR. HEDGES: At some point I would like to
12 talk. I thought perhaps we were going to stages
13 before substance. That's cool. Not a complaint. At
14 some point I have some comments.

15 MS. BIRNBAUM: Absolutely.

16 MS. REITER: I wasn't going to say anything,
17 except I can't sit next to Mr. Lack and not --

18 MR. LACK: We are in agreement so far.
19 Let's not either of us say anymore.

20 MS. BIRNBAUM: Mitra, you want to make some
21 comments.

22 MS. HORMOZI: I look forward to all the
23 information.

24 Something to consider. I understand public
25 servants certainly should have an expectation of
26 making less than not-for-profits, and absolutely in

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2 the private sector. Is it worth, just to throw it out
3 there though, comparing what our state pays compared
4 to other states? Or even --

5 MS. REITER: Absolutely.

6 MS. BIRNBAUM: We will definitely do that.

7 MS. HORMOZI: Okay. Great. That was my
8 only comment.

9 MS. BIRNBAUM: That's on our list.

10 MR. JOHNSON: Nothing to add.

11 MR. COZIER: Nothing to add this the point.

12 MS. BIRNBAUM: Back to you.

13 DR. HEDGES: With the starting point that
14 Jim provided, there are a couple of obvious places to
15 look for some contextual information.

16 With respect to legislative salaries, since
17 that's where we ended up, maybe we continue there for
18 a second.

19 One obvious thing is find out what other
20 states are doing. NCSL, National Conference of State
21 Legislators, typically retains a database for things
22 like that. It would be one phone call. He happens to
23 have been a president of that organization. Maybe he
24 can help us there.

25 MR. LACK: It is already being sent over as
26 of this morning.

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2 DR. HEDGES: With respect to legislators --

3 MS. BIRNBAUM: To see if they are presently
4 worth it.

5 DR. HEDGES: -- we have a number of
6 legislators that are sort of local that are relevant,
7 too; New York City Council, the county legislators of
8 some of the bigger counties, Nassau, Suffolk,
9 Westchester particularly, but perhaps Erie and Monroe,
10 as well. Their job descriptions are somewhat
11 different from each other, as well as from the state,
12 but again a point of reference.

13 Since I mentioned the New York City Council
14 as one of the those legislators comparable to the
15 County legislature in other parts of the state,
16 perhaps some other big cities would be relevant, as
17 well; LA, San Francisco, Chicago, Miami, Houston,
18 would be kind of the obvious places to look there.

19 Not unrelated, although certainly quite
20 different, would be the Congress. That's a
21 legislature that is long term at higher values, but we
22 should probably know what they are.

23 With respect to the executive branch, I
24 think that Jim is right that we should simply add it
25 to the list of what the values are because we are not
26 sure exactly what the universe is without getting it

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2 written down someplace.

3 But with respect to that, I agree that the
4 senior civil servants should be included in the list.
5 Even though they are not in our purview, it directly
6 effects the workings of the agencies.

7 It is very much the case, as Fran has
8 pointed out, that there are a number of agencies where
9 those senior people make more than the directors. And
10 that creates all sorts of difficulties. It should be
11 part of our calculation even if not dispositive by
12 itself.

13 In that same regard, in thinking about the
14 compensation there are some oddities for some agencies
15 where the statutory salary isn't the whole story. Oft
16 times there is something that in some sense is off to
17 the side but quite relevant. The obvious example,
18 with headlines related to it from decades ago, is the
19 Health Department with their research foundations.
20 But that also speaks to what else is there. It also
21 speaks to the senior people question, as well.

22 The research foundation of the various
23 agencies, particularly the ones in the health area,
24 oft times play a role in what the values for the
25 senior official are. In Mental Health there is a
26 research foundation that's built into the salary of

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2 many of the doctors so it kind of colors what it is
3 you think about the agency looking --

4 MS. BIRNBAUM: Are you thinking of pensions
5 and --

6 DR. HEDGES: Not so much pensions as just to
7 explain compensation.

8 MR. LACK: They are outside the pension
9 system.

10 DR. HEDGES: In the case of the Health
11 Department the research foundation used to play a role
12 that was like 50% of what the total compensation was.

13 MS. REITER: I am unaware of another agency
14 --

15 DR. HEDGES: I think Mental Health has a
16 capacity for it. Whether they do it or not, I don't
17 know. SUNY certainly has the capacity.

18 MR. LACK: It is a real problem up around
19 Albany.

20 DR. HEDGES: It very much has been.

21 But that gets back to what do we think about
22 the scope of this being. If we are talking about
23 research foundations it instantly brings into question
24 what kind of people are we talking about. Medical
25 doctors are the obvious place where that happens a
26 lot.

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2 For the SUNY faculty that are related to
3 medical schools, that's a real common way of
4 compensating. Just like it is in the mental health
5 world where the New York Psychiatric Institute, the
6 State Mental Health Department, Columbia, I think
7 those faculty might get three values. They get
8 Columbia salary, they get -- so having a sense of what
9 that scope is like, even if we are not pinning it down
10 and not being precise, to again give us context and we
11 are not saying silly things when we are talking about
12 this stuff.

13 And so my point would be the agencies, the
14 senior people, and other compensation related to the
15 agency on State payroll, not people who are not on
16 State payroll.

17 With respect to SUNY and CUNY, I think the
18 same questions should apply.

19 I am going to know from the get-go I am
20 going to discount that. In the same way that I am not
21 going to be terribly excited about exactly what do all
22 the not-for-profits in the world pay as a point of
23 comparison. Because I agree with Fran that public
24 sector is different.

25 But we do have this anomaly. There are many
26 people on public sector salary bases that also have

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2 other values, especially true in places where there
3 are research foundations. So SUNY and CUNY, the
4 medical centers in particular, I would like a sense of
5 it even if we discount it.

6 In the Albany area there is a SUNY faculty
7 member who is doing very well for SUNY and very well
8 for the State and who is also getting paid an enormous
9 amount, a small fraction of which is SUNY salary.

10 Alain Kaloyeros at Nanotech is my example there.

11 But same thing is true for medical doctors
12 and medical centers of the state university system.

13 There are a number of people who are paid big bucks
14 there, too. I think the senior staff at SUNY and CUNY
15 are relevant. Again, I don't think to the point of
16 lock-step, but at least something to think about.

17 The other big kind of anomaly that should be
18 put into the research agenda, again, with a real grain
19 of salt before we get going, before we fasten on it,
20 but the bigger public authorities are relevant here,
21 as well. Certainly in terms of compensation the ones
22 we know are big are places like the MTA and Port
23 Authority. But we also have a variety of other
24 state-wide authorities that are relevant as well; the
25 Dormitory Authority, UDC, being big ones. And they do
26 lots of financing. The Power Authority being a big

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2 one where we do a lot of public benefit work. But
3 some of the others that are pretty big in the finance
4 world, things like EFC, which we also have authorized
5 in law as a place where we do bonding on behalf of the
6 State, I think that would be relevant, as well.

7 With respect to the chief executive, I agree
8 that our statutory charges there is not, you know, can
9 we do something here because of the way the
10 Constitution works, but I think it is relevant. I
11 think it is important.

12 I think it is important to keep in mind as
13 we think about what compensation we are offering the
14 senior official and in the state agencies, what is it
15 the boss makes. And I think while we are probably not
16 charged with doing anything about it, I think perhaps
17 that should be part of our thought process. So not
18 only the executive of New York State, senior
19 executive, but perhaps some of the other big states
20 that we think of as sort of comparables, the New York
21 comparables, are California, Illinois, much as I might
22 not like it, probably Florida and Texas, as well. But
23 certainly that should be part of what we gather
24 information on.

25 The underlying thought that we all had in
26 mind when we were talking about judges, even though we

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2 are using -- at least I was using the federal judges
3 as a point of comparison, was keeping up with
4 inflation and keeping jobs attractive. So certainly
5 having the basic information about inflation is part
6 of what we should do.

7 Insofar as we have the capacity to get some
8 sense of what other senior executives are paid, I
9 think it would be useful to have some sense of at
10 least a few of the big corporations in New York and a
11 few of the big corporations that are not-for-profit in
12 New York. Not because I want to peg them, not because
13 I want to use them, because I do want to have that
14 context.

15 You know, when we were as a country thinking
16 about increasing compensation for the president, and
17 we doubled it, I think was the last time it was
18 changed, everyone knew that that was silly. It wasn't
19 anything other than the symbol of this is the senior
20 person that we want to make sure is not suffering a
21 hardship to take the job. That really implied that at
22 some level public service was thought that to be
23 punishment. And I want to make sure that we have that
24 concept available to us, if only to dismiss it in the
25 form of here is what some senior executives based in
26 New York are paid, both in the private sector,

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2 literally, and in not-for-profit.

3 MS. BIRNBAUM: I think what we need to do is
4 sort of prioritize what I think is going to be --

5 DR. HEDGES: As the priority, I would like
6 to have the state legislators elsewhere. I would like
7 to have the county legislators in New York.

8 I am being shown that we have some of that
9 already.

10 I would like to have the executives of New
11 York agencies, the very top, the ones we are talking
12 about, and the senior people in those same agencies,
13 the ones that we are aware we have management problems
14 related to the number 2 and 3 and 4 person being paid
15 more than number 1.

16 MS. BIRNBAUM: I think that represents to me
17 the priorities of what we need to be looking at and
18 then we can sort of come up with --

19 DR. HEDGES: Those to me are the priorities.

20 I think the next layer is the ancillary
21 State, and that's the SUNY and CUNY executives, the
22 presidents, the senior class of the executives, the
23 vice-presidents, would be the way that I would kind of
24 summarize that. And when I say president I use the
25 term loosely, because in some places they are called
26 president, some places they are called chancellor.

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2 But the senior executive.

3 And the public authorities. I would like
4 the top ones so that we know what we are talking
5 about.

6 In some sense that's the same comment as
7 about the senior managers of an agency getting paid
8 more than the head of the agency. We have public
9 authorities in the state who are paid way more than
10 the senior executives of the state.

11 MS. REITER: Because they haven't been
12 subject to the same statutory limitations.

13 DR. HEDGES: Exactly.

14 And again, I don't know that that's
15 lock-step. I just know that we have the data, this is
16 what we have to think, but I think we have to have the
17 information or we can't think clearly. Then I would
18 stop. All the rest are, to me, secondary. But it
19 would be nice if we could have it.

20 (Whereupon, Tal Hahn relieved Michael
21 Barfield as the Official Court Reporter.)

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2 MS. BIRNBAUM: Okay. So we will create an
3 agenda of research giving priorities to certain things.
4 So I think we have sort of -- if the people want to make
5 other comments, to the data research requests?

6 I would like to go back to the hearing dates.
7 I think we had agreement to make the two hearing dates
8 we had in mind. It would be March 10th, by New York
9 City, and March 23rd in Albany. And if you would like,
10 we could take Fran's suggestions, especially in Albany,
11 and have the morning as a Legislative and afternoon as
12 Executive. Or vice versa.

13 But I think it probably makes more sense to
14 have people have slots rather than taking one or the
15 other --

16 DR. HEDGES: With respect to the Albany
17 hearing, and the notion of bifurcating, I guess I would
18 suggest that we do the Executive in the morning, and
19 Legislative in the afternoon.

20 MS. REITER: No problem.

21 DR. HEDGES: We don't want to have the
22 scheduling problem a crowd might create. With respect
23 to the Albany hearing itself, I know from my work life,
24 and from reading the newspapers that it's budget season
25 in Albany. And when budget season hits, there are
26 literally no spaces available at all during that season

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2 for anybody.

3 MS. REITER: I would -- I have a guest room I
4 would give up at a great price. I could offer.

5 JUDGE LACK: I don't know about staying
6 overnight. We are worried about parking the car.

7 DR. HEDGES: And more to the point, you can't
8 get a space in those buildings during those weeks
9 because they are booked already.

10 MS. BIRNBAUM: Well, I think we will make an
11 effort right now to try to lock up some buildings in
12 maybe Albany Law School or --

13 JUDGE LACK: Maybe we could borrow an Albany
14 court building where the Court of Claims and 2nd
15 Department is, would be one place --

16 MS. BIRNBAUM: Court of Appeals would be a
17 lovely place.

18 JUDGE LACK: I specifically did not mention
19 that. That is not something OCA will be in favor of.
20 And I totally understand and agree. But the Justice
21 Building across the street from the Capital where the
22 3rd Department and Court of Claims is, is certainly a
23 space we could --

24 MS. BIRNBAUM: All right.

25 JUDGE LACK: If the courts would care to
26 comment.

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2 DR. HEDGES: That is the point, knowing how
3 hard it is to just get a place to park, if you are that
4 close to the capital this time of year, you may want to
5 think about going someplace a little bit else, you know,
6 if you are talking about hotels and parking if you get
7 to the north road side of Albany you will not have those
8 problems.

9 MS. BIRNBAUM: Does it make sense to have the
10 hearing a little later in Albany then?

11 DR. HEDGES: That would certainly obviate the
12 crunch.

13 MS. BIRNBAUM: When would that be?

14 JUDGE LACK: Specifically after April 1st.

15 MS. BIRNBAUM: Would that make some sense?

16 JUDGE LACK: One, assuming an on-time budget
17 and, yes, I --

18 MS. BIRNBAUM: We could certainly -- I think
19 people --

20 JUDGE LACK: I am away the first two weeks of
21 April. Scheduled long before.

22 MS. BIRNBAUM: I understand. Let's just leave
23 it where it is and we will hopefully be able to get a
24 space.

25 JUDGE LACK: They -- you have to have a hearing
26 in a public building. We will not rent a space in a

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2 hotel.

3 DR. HEDGES: Maybe a campus somewhere.

4 MS. REITER: Maybe a campus somewhere.

5 JUDGE LACK: We might also be criticized for
6 picking an out of place location in Albany.7 DR. HEDGES: I don't think for people who will
8 come to testify it matters. They are all coming by car
9 anyway. They might be happier coming to the campus.10 JUDGE LACK: We all might be happier since we
11 don't have reserved parking spaces.12 MS. BIRNBAUM: Can we talk about a third
13 meeting which would likely be in April? And likely
14 be -- I am sorry.15 DR. HEDGES: Before we settle on a third, let
16 me also offer these two suggestions:17 I think an out-of-state hearing is a really
18 good idea, but I also think considering an out-of-
19 borough location and Long Island location would be a
20 good idea as well.21 MS. BIRNBAUM: Okay. You are talking about a
22 fourth hearing now?23 DR. HEDGES: Well, I think the notion of being
24 available for the public to comment, you got to go where
25 people are, and that is where people are. And certainly
26 in the City the notion that everything happens in

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2 Manhattan is a point of irritation. And on the Island,
3 the same thing is almost as clearly true.

4 JUDGE LACK: I will just sit here and smile.

5 MS. BIRNBAUM: Let's get back to that question.

6 If we are going to do a third one, upstate, it seems to
7 me three possibilities; Syracuse, Rochester and Buffalo.
8 Unless anyone has another thought.

9 Of those three, do people have thoughts of
10 where they would think the hearing should be?

11 DR. HEDGES: I would argue that Syracuse is
12 more widely available as an upstate location than either
13 Rochester or Buffalo, not because there are more people
14 there, but if you are anywhere in upstate New York, you
15 are going to drive. And Buffalo is at the far end.
16 Rochester is a little less so. Syracuse is a lot less
17 so for a big chunk of the state. I think those are the
18 three conspicuous options.

19 JUDGE LACK: I agree. Syracuse is a lot
20 easier.

21 MS. BIRNBAUM: So, just to move the
22 conversation, if we chose Syracuse, would anybody
23 object?

24 JUDGE COZIER: No.

25 MS. BIRNBAUM: Let's say Syracuse. And we will
26 reach out to everyone separately as to timing so that we

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2 could hopefully, you know, have everyone available. So
3 it will be sometime after April 15th.

4 When are you --

5 JUDGE LACK: April 15th.

6 MS. BIRNBAUM: All right.

7 JUDGE LACK: Monday, April 18th, actually.

8 MS. BIRNBAUM: So it will be sometime after
9 April 18th and we will reach out to everybody and get a
10 date that works for everyone. Then the question
11 becomes, I think we need a meeting in New York City.

12 So do people think there should be a fourth
13 hearing? I assume what you are saying is someplace in
14 Nassau or Suffolk?

15 DR. HEDGES: Yes. And, you know, there are
16 government buildings that work pretty well. The
17 Government Center in Hauppauge is such a place.

18 JUDGE LACK: That is really hard for me, but
19 okay. Where my office was for twenty-four years, thank
20 you very much. I know where it is.

21 DR. HEDGES: Two other obvious places are
22 Brooklyn Borough Hall and --

23 MS. BIRNBAUM: I think if you are in Manhattan
24 or Brooklyn it hardly matters.

25 JUDGE LACK: Part of the way we could measure
26 that is what happens at the first meetings. Wait and

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2 see who and with what shows up with comment, and then,
3 you know -- I mean, I will make it up, we could storm
4 the gates at Syracuse and maybe say we have to go to
5 Rochester and Buffalo. Who knows.

6 MS. BIRNBAUM: Let's at this point leave it at
7 three. And after the first group's experiences, we
8 could figure a fourth. All right. So that would take
9 care of the public hearings.

10 I think we have an agenda for the data and
11 research issues in some sort of priority. Are there any
12 other issues that we need to discuss? And then of
13 course we will set up time periods for us to make
14 decisions. And as Fran said, there might be a hiatus
15 for the hearings themselves. At that point we may need
16 additional information, data, so I think we'll just keep
17 the agenda open as to meeting dates after that instead
18 of setting them down. Does that make sense?

19 MS. HORMOZI: That makes sense.

20 MS. BIRNBAUM: All right. Any other issues
21 that we need to discuss before we see each other March
22 10th, probably in this building, but we will see what
23 places we get -- we may want to get a place until we
24 lock down these dates. And we will try this week to
25 lock down the date in Syracuse, so we could pull all the
26 things together.

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JUDGE COZIER: Sounds fine.

MS. BIRNBAUM: Any other business? We stand
adjourned to March 10th. Thank you all.

DR. HEDGES: Thank you.

(Whereupon, the hearing was concluded at this
time.)

* * * *

Certified to be a true and accurate transcript
of the stenographic minutes taken within.

Michael Barfield,
Tal R. Hahn,
Senior Court Reporters

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