

In The Matter Of:
Public Meeting v.

July 26, 2016

Deborah A. Rothrock, RPR

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STATE OF NEW YORK
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PUBLIC MEETING:

COMMISSION ON LEGISLATIVE, JUDICIAL AND EXECUTIVE
COMPENSATION,

New York City Bar Association
42 West 44th Street
New York, New York

July 26, 2016

BEFORE:

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

DEBORAH A. ROTHROCK, RPR
CAROLYN BARNA,
Official Court Reporters

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2 MS. BIRNBAUM: We are going to start this meeting.

3 This is a Deliberation Meeting on the issue of
4 Legislative and Executive Compensation. It is a
5 continuation of the discussion we had at our last meeting.
6 Since then, we have received a number of reports and
7 comments which are all listed on our website. And normally
8 --we had asked again at our last meeting to see if we could
9 get certain professors and others who are academics in the
10 field to respond to our inquires and thanks to our staff
11 --and we thank you for following up on that-- we did get
12 some responses which have been helpful.

13 So I open it up to the Commission to start the
14 discussion. Roman, do you want to comment on the reports?

15 DR. HEDGES: I would love to.

16 MS. BIRNBAUM: You are the person who pushed us on
17 that.

18 DR. HEDGES: I am really pleased that Mindy was as
19 diligent as anyone could be and rounded up a couple of
20 people who had interesting things to say; one in particular
21 is Professor Squire. I was describing him to Mindy before
22 we started. As a graduate student I had the good fortune of
23 having one of my professors be a man by the name Richard
24 Fenno, who was and is the premier student in the country and
25 in the world in the study of Congress. And he did seminal
26 work in three or four different aspects of the study of

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2 Congress defining the field and everybody since then has
3 done research in one of the venues that he outlined. In the
4 study of the State Legislatures there was another guy who
5 was roughly the same age who recently passed away three or
6 four years ago, a man by the name of Alan Rosenthal, who was
7 at Rutgers, who discussed State Legislature, and he, too,
8 defined the field. Each new book was another avenue for
9 subsequent researchers to do their work. And when he passed
10 away. The New York Times identified him as the lead scholar
11 of the State Legislation.

12 The person who followed up with that, with a
13 different focus than Alan had, was Professor Squire. And,
14 so, to get his comments to me, that was like the ultimate.
15 We had the premier expert in the country thinking about
16 State Legislatures and gave us advice of things to think
17 about. Without regard to any particular thing he said,
18 these are things to think about and I was just really
19 tickled to have worked with him.

20 When I looked at the work that they did -- the two
21 people particularly that commented on it looked at the
22 material that Fran had provided to us, what has happened
23 with M/C professionals in the State Government.

24 MS. REITER: It was actually Gary who got that. We
25 had discussions I thought.

26 DR. HEDGES: I mean, I thought I saw in the e-mail

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2 from you.

3 MR. JOHNSON: Mindy did it.

4 DR. HEDGES: Thank you both. The point is that it
5 was good work and a good foundation.

6 When I think about the material we had, or I think
7 about the issues I know about, when I think about what
8 Rosenthal said, essentially, I thought he was a premier
9 student of the State Legislature.

10 What he identified as the function of the
11 Legislature I think are things that we should think about.
12 He said their purpose -- the way we should evaluate them, he
13 wrote a book called Heavy Lifting about --about a thousand
14 years ago -- that was what he said at the time, the last
15 thing he wrote. What he said is, that this is the
16 culmination of my academic career. I thought about this for
17 many, many years, but I never wrote it down and here it is.
18 Here is what I think a good Legislature is. And what he
19 said is, representation was the first thing that he wrote
20 about and representing was the function. He said it was
21 lawmaking, that was the second thing that he talked about.

22 And, given the fact that Fran is sitting next to
23 me, I say this with a little trepidation, the other thing
24 was fighting with the Governor, fighting with the Executive.
25 The reason we have Legislature --

26 MS. REITER: Of course.

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2 DR. HEDGES: --is to resist the Executive. And
3 even if it was a spectacular job in the book, he did not
4 talk about anything specific. One time I asked him would he
5 ever talk about that? He gave me the same answer that Dick
6 Fenno had, which is, wait a second, I can't study these guys
7 if I'm giving commentary on them. So I am never going to do
8 that. And, as far as I know, he never did. So he didn't
9 talked about mundane matters, like what we should get paid.
10 He said here's how we should think about it.

11 And I took Squire in that form as well. It is not
12 just, here is his recommendation and we should listen to
13 him, per se. But here is his recommendation, here is his
14 reason, here is his thought process and things that we
15 should think about. I just thought it was spectacular.

16 I took that and did a little bit of noodling in a
17 spreadsheet, basically along the lines of the M/C
18 calculations that I have given, and said, okay, so if we do
19 it the way things are done, then we look for the senior
20 managers in place and said, so how should we think about
21 Legislatures? How should we think about Commissioners? How
22 should we think about the senior Executives, the Electives?

23 Well, one of the options is, the M/C guys got
24 42.25 percent --that is, at least one of the groups did.
25 There are technical details as to why some of the other
26 groups got slightly different, but that is a good number.

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2 get good people? How do we keep good people? How do we
3 think about what it takes to make the organization function
4 and keep track of good people? We need to do those things.
5 We need to have people say, I would like to be Commissioner,
6 I would like to be promoted to be Commissioner, I would like
7 to be the head of the agency and direct the agency, I would
8 like to be Governor and direct how the agency functions and
9 interacts with the Legislature.

10 I would like the Legislators to be well enough
11 rewarded so that they will stick around because I think --I
12 use Squire in part and I use Rosenthal in part -- we need
13 people who are smart enough, who are knowledgeable enough,
14 who have learned enough that they shouldn't be listening to
15 their senior staff as the only source of information. They
16 shouldn't be listening to lobbyists as their only source of
17 information.

18 They should be listening to the people that elect
19 them. They should be listening to their colleagues. They
20 should be thinking for themselves. They should be drawing
21 on all of those influences. They should be smart enough to
22 sort through all of that stuff and read complicated things.
23 And I think that is not a part-time thought, whether it's a
24 Commissioner or a Governor or a Legislator. I think that is
25 not a part-time vocational idea. I think that is an
26 investment in a career. It is really hard work. As someone

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2 who has spent 20 years as a senior Legislative staff person,
3 I would like to think that the people I have worked for were
4 smarter than I was and that they listened to the advice I
5 gave them, but took it as advice and not as direction.

6 I would like to think that when I interacted with
7 lobbyists I didn't have to worry that the people I worked
8 for didn't know enough to interact with even more
9 sophisticates than I did. I want that in a Governor. And I
10 think if we are talking flavors like the ones I just
11 outlined, to me that puts me in the right realm, that is
12 going to attract good people. It is going to get people
13 from The City of New York to work in the Legislature. They
14 are not going to do it for the money in those kinds of
15 numbers, but they are not going to be so put off that they
16 can't accept the idea.

17 They are not going to be so strapped in their
18 thoughts about how do I support my family and take the job?
19 I want that for Commissioners, too. I don't want them to be
20 in a place where they have to say, I can only do this for
21 the weekend because I need to support my family and I need a
22 real job.

23 So, with all of that as backdrop, I want to thank
24 Mindy who is really great. I know how hard it is to get
25 academics to drop what they are doing and, for no
26 compensation, come in and tell us what they know. They

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2 spent their full careers thinking about the issues that we
3 are looking at and we are only part-time, so, great. Thank
4 you.

5 MS. BIRNBAUM: Do you want to make a proposal?

6 DR. HEDGES: Well, I made a suggestion about
7 A-Commissioners as an idea last, which was to go to
8 \$200,000, which was a little bit more than inflation, it was
9 a nice round number, that is how I got there. I said, well,
10 a way to think about them would be to them looking at the
11 other Commissioners proportionately; they are currently A,
12 B, C, D, E, and F, and each of those are a portion of the
13 top rung; so use the same proportion.

14 If we are looking at the F-Commissioners, that
15 would be a number in the neighborhood of 133.5.

16 If I were to do the same percentage increase for
17 Governor, as yet, again, a point of reference, I know
18 technically that is not what we are doing, but I would like
19 to think that we are mindful of what that should look like
20 because we are asked to look at Comptroller and AG.

21 So, if he went up to say 46 and it was .06 is what
22 that translates to, the Governor would get to 263.2;
23 Lieutenant Governor would be 222.78. So would the
24 Comptroller, the Attorney General, and the Legislature would
25 be 116.9. And then if I factor in the freight-- we are not
26 really dealing with what is called the lulus, stipend, that

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1 leadership, that the Committee Chairs get. So, the Speaker
2 and the Majority leader, their current stipend is 41.5. So,
3 if I left it that way and looked at the Legislature at 116.9
4 and said the stipend, the Speaker, the Majority leader is
5 41.5, I get 158.4. By the way, what that translates to, the
6 members, the routine member without any extra goes up
7 46 percent; but depending on the size of the stipend, all of
8 the people with stipends go up less. So the Speaker and the
9 Majority leader would go up 31 or 30.9, in that range.

10 Actually everybody else's would go up proportionately
11 differently because the City stipend is different for each
12 role. All the way across the board would be an increase,
13 but not an apportionment because the stipend needs to go up.

14 So, in my mind, there's a proposal. And I would do
15 that not so much as that is my proposal, that is it; as much
16 as here is the place to start the discussion.

17 MS. BIRNBAUM: Thank you.

18 Do we have anybody who would like to comment on
19 this?

20 MS. REITER: Well, I would just like to say thank
21 you because I think that that is beginning, that benchmark,
22 it is a place to start.

23 I still have a bunch of questions and I'm still
24 trying to get some additional information, including I've
25 asked to get some information from JCOPE in terms of outside
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2 income.

3 I found that the material that we got, particularly
4 Squire's material, was interesting and informative. I found
5 the other material to be really not terribly helpful. For
6 one thing, it really didn't tell us very much and his focus
7 seemed to be --really seemed to be on the relationship
8 between raising legislators' salaries to more of a public
9 spending. I guess we would have to dig deeper into his
10 material if he found the details of the correlation.

11 DR. HEDGES: Well, let me respond to that briefly.

12 I think what he ended up saying was, there isn't
13 much.

14 MS. REITER: Right.

15 DR. HEDGES: And I think that is interesting in the
16 bigger picture of our deliberation. We shouldn't be
17 terribly worried.

18 MS. REITER: I wasn't.

19 DR. HEDGES: Yes.

20 MS. REITER: I guess I'm dismissing it because,
21 frankly, I never thought of it at all. So I had already
22 dismissed it.

23 DR. HEDGES: So I think there was actually
24 something to be addressed there that I found helpful and
25 that is this:

26 One of the concerns about the raising of the pay of

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2 the elected officials, does that make them less careful with
3 our dollars?

4 MS. REITER: Right.

5 DR. HEDGES: And the answer is, not obviously so.
6 And that is a good thing.

7 MS. REITER: Yes. And I would have guessed that
8 that was the outcome.

9 I think that your analysis in terms of the
10 Executive issues that we deal with, Executive pay issues;
11 while I lean towards looking at the M/C increases as the,
12 sort of the barometer, rather than cost of living. I say
13 that because the M/C increases are generally given when,
14 from a budgetary standpoint they are --the Governor is able
15 to do them, right. Whereas, built-in cost of living
16 increases, which are typical and contractual, right, I have
17 never believed is something that should be the arbiter of
18 any pay increases because I think that that is the keepers
19 --the keepers of the public fist. When times are bad,
20 public employees are generally -- I should say Executive
21 employees --generally have to eat it, right? So, whether
22 you're the Governor, or whether you are the Commissioner, or
23 whether you are Assistant Commissioner, but those all fall
24 into the M/C world.

25 So, I would be more inclined, as I think of this
26 more and more, to look at those M/C increases over a period

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2 of time than the cost of living or the Consumer Price
3 Increase or any of those other economic blockers.

4 MS. BIRNBAUM: If we look at that, where would that
5 take us?

6 MS. REITER: As Roman pointed out, it is 42 and
7 change, I think was the M/C number.

8 DR. HEDGES: Right.

9 MS. REITER: It is not that big of a difference,
10 but I think it is a huge difference, in my view, in terms of
11 going forward.

12 I think one of the things that we want to come out
13 of this is both for the next four years, right? But also
14 for Commissioners that come --I don't want to set a
15 precedent that is hard to undo for those who take our place
16 four years from now. I think that that would be the wrong
17 thing to do.

18 The second comment I want to make about some of the
19 things that Roman --first of all, I don't know why you would
20 have any trepidation about saying that the Legislature is
21 there to fight with the Governor, that is what the
22 separation of powers is all about and I am a big believer.
23 You should have no trepidation about that.

24 (Continued next page.)
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2 MS. REITER: I do think that the way when
3 we think about salary that it is a different process
4 for me in thinking about legislators' salaries who
5 are elected who answer directly to the public when
6 elected versus executive employees. I'm talking
7 about the Attorney General or the Comptroller or the
8 Governor. Speaking about full-time, the full-time
9 managerials, high-end managerials that basically run
10 the day-to-day operations of our Government.

11 I think I look at them differently and,
12 there is no secret, I never believed that what we do
13 for one is what we have to do for the other. I think
14 that they are different. I think that they should be
15 treated differently. So those are sort of some of
16 the issues I'm still thinking about.

17 I had a question which I actually asked
18 Mindy about and I'm -- she and I agreed on our
19 meaning of it. Some of you here may have different
20 views at least, by all means, which is regarding the
21 lulus.

22 I'm not a lawyer. When I read the statute
23 that created us, it leads me to believe that we
24 actually could take some action having to do with the
25 lulus. We could, as part of our recommendation, do
26 away with them. I'm suggesting we should do away

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2 with them. I'm just saying that as we think about
3 any increase in Legislative salaries, do we want to
4 look at lulus as well, not just that we raise the
5 salaries and then we add on the lulu that exists
6 right now because it seems to me, until somebody
7 tells me we can't, that, in fact, that's something
8 that we are allowed to do by virtue of the law that
9 created us. So that's something to think about.

10 The issue about, that you raised, Roman,
11 which I do find interesting and probably take some
12 issue with, is whether or not rewarding legislators
13 so they stick around is something that, that is real
14 in terms of what we see which is most legislators
15 aren't going anywhere. That the ones that we have
16 now get re-elected time after time after time after
17 time. The public is wholly dissatisfied with them,
18 if you could read the mail we get, and yet they keep
19 re-electing them over and over and over and over
20 again, rather than exercising their right to vote for
21 somebody else.

22 But I haven't seen a shortage of people who
23 want to be state legislators. I may be wrong about
24 that, but I certainly haven't seen any evidence about
25 it. Nor, does it appear that those who are serving
26 now, though many of whom are serving for a very, very

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2 long time, are leaving because of this issue.

3 Finally, the issue of full-time versus
4 part-time, which actually gets to my -- part of my
5 issue about comparing the Legislature, the
6 Legislature right now to the Executive. We do have a
7 part-time Legislature.

8 And I was interested to see in Professor
9 Squire's submission that he seems to think we have a
10 full-time legislature here because he says that, and
11 I read it carefully and he does say that. He talked
12 about comparing us to California and Pennsylvania
13 which, according to their Legislative websites, are
14 clearly full-time Legislatures, even though I think
15 California is a nine month Legislative session.

16 I'm going to be interested in one of the
17 pieces of research that I'm going to try and do over
18 the next month or so is to see, in fact, and if
19 anybody knows the answer to this, you can save me the
20 trouble. But I want know whether outside income is
21 allowed in those, in those other states that have
22 full-time Legislatures.

23 And when I say outside income, I'm not
24 talking about investment income or, you know, writing
25 a book income kind of a thing. I'm talking about
26 people who are practicing law or practicing some

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2 other profession while they're serving in the
3 Legislature. It would be interesting to know, just
4 another piece of information, as I try to figure out
5 how I feel about all of this.

6 But I do think we're a lot further along.
7 And I'm still not there on any of this, including
8 where I think we ought to turn out the Executive;
9 although, I think personally I'm further along
10 there. But there's still a lot to think about and
11 this information has been very helpful.

12 DR. HEDGES: Well, one observation, if I
13 might. The question of full-time, I think, is a
14 really tricky one and I think it's tricky because
15 we're not sure what the job is when we talk about
16 Legislature.

17 One of the reasons I brought up Rosenthal
18 is, in part, my real great regard for the work that
19 he did and all of the books that I've read that he
20 wrote. But particularly his notion that one of the
21 aspects of the job is lawmaking. One is
22 representing. The other is the resisting.

23 But the lawmaking is the only one that we
24 identify when we talk about the analyst stuff. And --
25 but that's not where they spend their time. If you
26 use Rosenthal as a specific, he talks about how

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2 members, he studied them by talking to them, living
3 with them and interacting with them.

4 If you talk about what do they think
5 they're doing, most of them think the thing that got
6 them there, the thing that they do, is to represent.
7 And that is full-time. That's 24 hours a day.
8 That's you go home and somebody calls you at ten
9 o'clock at night because something bad happened in
10 the neighborhood and they want you as a legislator to
11 be an ombudsman with the Government to go figure it
12 out and fix it for them. That part doesn't count in
13 the count by definition.

14 MS. REITER: I know that.

15 DR. HEDGES: And so I've always thought
16 they made a mistake in representing themselves to the
17 public by saying here's our calendar, here's our
18 workday. It's a few hours a day a few days a week
19 for a few months of the year. Except that at ten
20 o'clock at night when somebody calls you, you don't
21 say, "Hey, I'm not at work" and hang up. They do
22 that and that part, to me, is the critical part.

23 MS. REITER: That may be. And I tried to
24 say this the last time we were here.

25 DR. HEDGES: I know you did.

26 MS. REITER: But I was interrupted and

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2 misinterpreted. And I'm going to try to say it more
3 clearly. I don't really disagree with you; although,
4 I do believe that that job is at least equally, if
5 not more, done by a more local Legislature, whether
6 it's a town council or a city council.

7 There are problems that constituents have
8 with the State and the State agencies and I have no
9 doubt they call there. You call your representative,
10 I've done it. I'm not arguing with that.

11 I do believe that the degree to which that
12 is part of the job should have been testified to
13 here. I still believe that. I do not believe that
14 legislators coming before us and making that case is
15 in any way contrary to or in conflict with the reason
16 we were created.

17 We're not asking them to make a decision
18 about their raises, right. I was never suggesting
19 that. Nor, do I think having them testify to say
20 this is what we do and this is why we deserve a raise
21 because we don't just legislate.

22 We do A,B,C,D and E, not just A, right. It
23 would have been helpful not only to us, but to their
24 case. And, in fact, that hasn't happened. And we can
25 argue about that or disagree about whether they
26 should have or not, but my own opinion is that they

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2 should have. They should make the case as to what
3 they did.

4 Here's the other piece of it, though. So
5 long as there is outside employment allowed, which
6 applies to some number of legislators, not all, as
7 opposed to having a full-time Legislature with no
8 outside work of any kind, leaves open the
9 possibility, and that possibility has been realized
10 in major ways in recent times, for conflicts of
11 interest between those two masters. The master being
12 who you work for on the outside and your
13 responsibility to represent your constituents. And
14 those things can come in conflict.

15 So long as that exists, whether they're
16 really working full-time, and some probably are and
17 some probably aren't, or not, I'm always going to
18 view them as part-time, even if they're putting in a
19 lot of that work, that extra work over legislating,
20 because of all of those issues. And that's just my
21 view of it. And we can respectfully disagree about
22 that.

23 But those are some of the issues that are
24 ultimately going to inform where I am on this and I'm
25 not ready. I don't know where I'm going to come out
26 here. I really don't. I'm just not ready.

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2 MS. BIRNBAUM: Let's try to get some others
3 into the conversation.

4 DR. HEDGES: One last thing, because I
5 meant to say it based on last time and I forgot. I
6 apologize for that.

7 But one of the things that strikes me as an
8 important dynamic both for the commissioners and for
9 the legislators is the sense that coming before us
10 was potentially understood by the public as unseemly
11 for them to come to us and make a pitch one way or
12 the other. And I don't want to hold that against
13 anyone. And so I just want that in the mix.

14 MS. REITER: Certainly in terms of the
15 Executive, I never expected employees of the
16 Government, even commissioner level employees, to
17 come before us to make that case.

18 I actually think the Governor has made the
19 case publicly many times in recent years about the
20 difficulty of attracting good people. All of the
21 things you and I agree on we need to be able to do to
22 get top level Executive Management into State
23 Government. He's made that case often.

24 I think it's different for the legislators
25 and it didn't seem unseemly to me. But we're just
26 going to have to agree to disagree on it, that's all.

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2 MS. BIRNBAUM: Let's get some more comments
3 from anyone else.

4 HON. COZIER: Well, my impression in terms
5 of considerations is that for both Legislative and
6 Executive we are starting -- one of the starting
7 points is the fact that, of course, there have been
8 no increases since 1999. And so we are in the 17th
9 year of no increases.

10 And I think that in and of itself is a very
11 significant consideration for us in terms of yes, I
12 believe there's certainly need to increase both
13 Legislative and Executive salaries.

14 Now, on the issue of the Executive
15 compensation, I am more or less in accord with Roman
16 in terms of the ballpark, to me, seems to be for the
17 A-Commissioners somewhere in the 195 to \$200,000
18 range. I think it is a reasonable range for those
19 persons who are clearly full-time. This is what they
20 do and they don't have outside income. We don't have
21 that issue.

22 And in terms of comparability, when we look
23 at New York City particularly and the salary levels
24 since 2015, that it would place them at least in the
25 ballpark. It still will be below the level of the
26 senior commissioners in New York City, but I think it

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2 places them in reasonable stand. So whether it's the
3 42.5 or the 46 plus, I think, you know, the range is
4 a reasonable range.

5 The other consideration with Executive is,
6 of course, the salaries of their Deputies. We have
7 talked about -- with respect to Commissioners. We
8 know that there are Deputies making 170s to 180s
9 already. And it seems to me that the Commissioners
10 should be at a level above the Deputies.

11 So they, you know, the idea that people
12 only want to be interim or want to be Deputies, but
13 don't want to be Commissioners is somewhat absurd,
14 but it's because of that 17 year lag that, in fact,
15 there has been no movement.

16 Now, with respect to the Legislative
17 salaries, I looked at Squire and Squire came in at
18 around 114 plus, I believe 113.2. And I thought
19 that, again, taking into account the 17 year period,
20 that was not unreasonable, per se.

21 But the two caveats to me, are, one
22 addressing, Fran, your concern, we certainly can make
23 a recommendation with respect to the lulus because
24 those do skew, you know, the whole piece as far as
25 the Legislature is concerned, and the range
26 currently, under the Legislative Law, is from 9,000

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2 to 41.5. Quite a spread between those members who
3 are at the bottom and members at the top. So, I
4 think that, you know, some recommendation with
5 respect to the lulus would be appropriate.

6 But more important to me --

7 MS. BIRNBAUM: When you say that it's
8 appropriate, a recommendation --

9 HON. COZIER: By us.

10 MS. BIRNBAUM: -- that the lulus be
11 eliminated?

12 HON. COZIER: Well, I think we have to
13 discuss that further whether we're talking about
14 eliminating or adjusted and how that should be done.

15 The second piece I think critical with the
16 idea of the legislators is the fact that, as a matter
17 of law, it is a part-time job. And there are
18 realities in terms of there is no question that we
19 have members, and probably the majority of members,
20 that that is their full-time job. That's what they
21 do and they do it on a full-time basis.

22 But, as currently structured, because they
23 can, in fact, have unlimited outside income, I think
24 that's a very, very critical issue. And so it seems
25 to me that a recommendation in the range of 114, 115,
26 whatever it is going to be, should be sort of

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2 conditioned upon the fact that there be a limitation
3 with respect to outside income. And my thoughts are
4 maybe, you know, no more than 25 percent of
5 Legislative income.

6 MS. REITER: We're not allowed to deal with
7 that, other than by making a recommendation. And
8 therein lies part of my dilemma which is if we could
9 remake the whole system, I'd be much further along,
10 by the way. But we can't. So --

11 HON. COZIER: So we have limitations
12 because of the current legislation. But I'm just
13 saying I think that we should try to address that
14 issue, you know. I'm not that uncomfortable with the
15 114, whatever, that arena, assuming that there are
16 certain other limitations.

17 MS. BIRNBAUM: But when we decide this
18 issue and we can make recommendations, there's no --
19 we've got to decide it as if the recommendation was
20 not --

21 MS. REITER: That's exactly right. That's
22 my problem.

23 MS. BIRNBAUM: I think that the reality is
24 we could make any kind of recommendation and it's
25 advisory, but the number may be the number. So I
26 think it is a difficult determination to make because

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2 we don't have a clean slate.

3 Gary, do you want to add anything on this
4 side of the table?

5 MR. JOHNSON: I just had a question in kind
6 of following up on that last point in terms of the
7 arena in which we're playing and how we see ourselves
8 limited by the Governor's salary. Do we need to say
9 we hold the Governor's current salary. Do we see
10 ourselves being able to anticipate going above the
11 Governor's salary, and how does that enter into our
12 deliberations.

13 MS. BIRNBAUM: My thought is it would be if
14 that there were these other changes in salary, the
15 Governor's salary would likely change as well to
16 reflect these changes. So, for me, anyhow, I would
17 not look at that as a cap or anything else. That is
18 up to other people to conclude what that should be
19 after we make our recommendations, assuming the
20 recommendations are accepted. That's my thought.

21 MS. HORMOZI: I'm still struggling. I
22 don't want to connect necessarily the Executive with
23 the Legislative, but I remain very uncomfortable. I
24 know we can't affect the part-time issue, but it's a
25 big problem. The public sees it as a big problem
26 certainly. They have lost faith in a lot of what

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2 Albany does. And I'm sure it's because of the few,
3 not the majority, that are singled out and
4 prosecuted.

5 But, to your point, it is a full-time job.
6 It should be a full-time job. Members of the
7 Legislature work hard. They should be compensated
8 for full-time. And take out all the temptation or
9 the appearance of conflicts by making themselves
10 full-time.

11 And so I really am stuck at why would I
12 recommend or vote to recommend increasing their part-
13 time salaries because it won't -- that will just keep
14 them placated and happy and there is no impetus to
15 try to change the system.

16 We can't change the system, but I firmly
17 believe the system needs to change.

18 (Continued on the next page)

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2 MS. HORMOZI: So I'm still very much struggling
3 with my role here and how that will affect decisions by the
4 New York Legislature.

5 MS. BIRNBAUM: Anyone else?

6 Well, just trying to synthesize what has been
7 expressed so far. I think that it would be fairly unique to
8 come up with a determination on these Executive salaries
9 within the small range, or at least I'm hearing that there's
10 some consensus within the range of the Executive salary.
11 There's a lot less consensus and still lots of questions on
12 what the amount of the Legislative salary.

13 So, I guess, is there anymore information?

14 Fran, I know you said you wanted to get some
15 additional information.

16 HONORABLE LACK: Yes, I will make a suggestion. My
17 suggestion is trying to raise that the inquiry be made of
18 counsel, to Governor counsel, to Senate counsel, counsel of
19 the Assembly, to the drafters of the Legislation as to
20 whether or not conclusive within that Legislation there is
21 anything we could do about the lulus. And then rely on the
22 opinions you get from the drafters of the Legislation.

23 MS. BIRNBAUM: So let's assume that we do that and
24 they say you make a recommendation.

25 HONORABLE LACK: I'm particularly bound by whatever
26 it is the drafters of the Legislation said they did when

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2 they drafted the Legislation and what it covers and what it
3 doesn't cover.

4 I mean, the only way not to do that is to go get
5 judicial interpretations -- I don't think anybody here wants
6 to do that. So the drafters know what they did and ask
7 them.

8 MS. REITER: So I don't have a problem with that.
9 We should find out.

10 The other thing is --

11 MS. BIRNBAUM: Does anyone have any problem with
12 making those inquiries?

13 HONORABLE COZIER: I agree.

14 MS. BIRNBAUM: We certainly will proceed down that
15 road in due course.

16 MS. REITER: And I guess the only other piece of
17 information that I'm looking for right now is to get a
18 better sense, if not a complete sense of how many of our
19 members -- how many Legislative members in fact do have
20 outside income versus how many do not. I don't have a
21 handle on that.

22 HONORABLE LACK: Well, to answer that, Fran,
23 actually I've seen a lot of newspaper articles lately,
24 showing that based on the current filings, which I guess we
25 could get.

26 MS. REITER: Yes.

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2 HONORABLE LACK: That the Majority of both the
3 Senate and the Assembly have no outside income.

4 Now, I don't know how you define "outside income"
5 anymore than we do. But I assume they are talking about
6 earned income. Because of the ages of members of both
7 houses and Legislature, obviously there are Legislators who
8 have 403B, 401(k)s, IRA Keogh, income under R&D and
9 receiving social security, et cetera, and all of that is
10 quote unquote "income."

11 MS. REITER: Right. I'm not looking at that.

12 HONORABLE LACK: But that is passive income.

13 MS. REITER: That is passive.

14 HONORABLE LACK: That is passive as we would look
15 at it.

16 MS. REITER: Yes.

17 HONORABLE LACK: The information I saw, which I
18 think we could get confirmed, which is basically newspaper
19 information, but that there were six members of the Senate
20 whose income is in excess of \$100,000. One is an Executive
21 of a family corporation and a lot more income than that
22 --congratulations. The other five were attorneys. One of
23 whom is retired and one of whom is a current Majority leader
24 who quit his law firm in 2015 and had to report, obviously,
25 in 2015 and said he's reporting no income other than his
26 Senate salary in 2016.

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2 That leaves three members of the Senate who are
3 attorneys and 63 members who are earning that kind of
4 income; hardly a great number. And my concern always has
5 been for -- particularly the younger members of the Majority
6 and the Assembly -- Roman knows as well as I do -- have to
7 spend sometimes eight years -- I think it is currently eight
8 years before they could even get a lulu and, so, therefore,
9 they are on basic salary for eight years. Many of them are
10 from The City of New York which, of course, under your
11 standard of living comparisons has the highest amount of
12 standard of living from any place in the State and existing
13 on just a very small salary, quite frankly, after 17 years.
14 And, quite frankly, do a lot more work than their colleagues
15 on the other side of the aisle Assembly who are indeed
16 receiving lulu because they have a Majority position and,
17 therefore, have the responsibility and ability to pass
18 Legislation. I think that is, in my opinion, one of what
19 Professor Squire is referring to in his report when he's
20 talking about a full-time Legislature, that is the effort
21 that was being put in in terms of New York.

22 And I must say to you, that going back to at least
23 my number, which is, in fact, based obviously in the late
24 seventies; the complexion of this Legislation --
25 notwithstanding the Constitution -- in terms of full-time
26 versus part-time, obviously, there are issues in the

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2 seventies, and the eighties, the nineties. There is
3 actually much greater amount of full-time who were
4 Legislators than there ever was decades ago. I think that
5 number is, obviously, increasing and not decreasing.
6 Witnessing in fact that all three current leaders of the
7 Legislature have gone away with-- two of the attorneys have
8 gone away with their legal participation and they are
9 existing only on their Legislative salaries and the
10 necessary outside incomes in the past. And I think that is
11 the way it will come. And, obviously, to change that is not
12 in our time -- and probably will not happen with the
13 Legislation --there is going to be a Constitution event in
14 2017. Obviously there will be a structured Legislature
15 identifying the Constitution and will be the subject of
16 discussion if, and when that happens.

17 But in terms of it being increasingly quote unquote
18 "full-time members," yes, that certainly has to happen. You
19 know, you sort of have to get elected every two years. So
20 whether you're quote unquote "full-time" or "part-time," if
21 you would ignore your constituents, that can result in,
22 quite frankly, of you not getting elected and there are
23 certainly contested Legislative elections each year, you
24 read about them and they certainly happen.

25 And Legislators -- at least those that I have
26 worked with over the years, quite frankly, work very hard.

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2 And you do, as Roman mentioned, take 10 or 11:00 phone calls
3 and have to do something about it. I don't want to get into
4 a discussion about who has the greater responsibility;
5 Legislators on a local level or Legislators on a state
6 level. Quite frankly, I think both those Legislative
7 entities work hard at all times, borne out by the fact that
8 they have to get re-elected and they have to show something.

9 MS. BIRNBAUM: Well, I know we are not ready to
10 vote anything now, but I'm just saying --from at least my
11 perspective we have a Legislature intact. It is a part-time
12 Legislature. People may be working full-time, but it is
13 still a part-time Legislature. They do have outside income,
14 maybe for most of the folks; that is the reality. We could
15 make all kinds of trepidations but that is the reality they
16 will have to decide.

17 And there are the lulus. You have to --they are
18 not eliminating these lulus regardless of what we may
19 recommend in the future. What they will do is another
20 thing. I think in the end you're going to have to make a
21 determination based on realities that there are, no matter
22 how hard it might be.

23 So we will get the information, get these letters
24 out that you suggested. Get the information that you need,
25 Fran, to give you more time on these things.

26 Is there anything else we can get for any of the

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2 Commissioners that will help them come to a determination?
3 Because sooner or later we have to do that -- and maybe we
4 don't come to a determination of each equal member of each
5 equal group.

6 DR. HEDGES: With respect to information gathering,
7 one of the people who did testify before us was a
8 representative of Common Cause and they had done a study at
9 the end of last year, or the year before, where they had
10 tried to determine the extent of outside income and it would
11 be good for us to secure that study as well and share it.

12 MS. BIRNBAUM: Yes. We will definitely get that.
13 In the mean time Mindy wrote it down.

14 MS. REITER: It would certainly be easier than
15 getting it from JCOPE.

16 DR. HEDGES: Certainly quicker.

17 MS. BIRNBAUM: Well, let me ask this question.
18 Since we are going to send these letters out and hopefully
19 get answers from the various counsel, should we set a
20 meeting for September and give them an opportunity to
21 respond?

22 HONORABLE LACK: You know, some of them might even
23 be done by a phone call instead of sending letters and
24 following up with counsel involved and saying --because it
25 is not a complex question. And I have a feeling based on
26 that, that that was all discussed when they wrote this

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2 Legislation in the beginning.

3 MS. REITER: Well responding, though, irrespective
4 of whether doing it by letter or a phone call at this point,
5 you know we are heading into the dog days of summer. It is
6 hard to get people together.

7 HONORABLE LACK: Fine.

8 MS. REITER: One of the things that I think we
9 heard from everybody is that no one is quite ready yet and
10 there is still thinking to be done by everyone and more
11 information to the study. I completely agree that we should
12 not have a meeting in August, but, in fact, look to do a
13 meeting sometime after Labor Day, sometime in mid-September,
14 which gives us lots of time before we reconvene.

15 HONORABLE LACK: Yes.

16 MS. BIRNBAUM: Does anybody have a problem with
17 that? We will make sure we will get some dates out to
18 people, unless we want to try to do it now?

19 HONORABLE LACK: We could get the 2015 Ethics
20 submissions while we are at it?

21 MS. BIRNBAUM: Sure. Sure.

22 HONORABLE LACK: Sorry Mindy. We could do a
23 compilation off of that. As I said, as I read in the
24 newspapers, some reporters compiled --

25 MS. REITER: Before you do it, Mindy, I actually
26 put a request in to try to get the stuff from JCOPE. Before

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2 you go spin your wheels, give me a couple of days to see
3 where that is.

4 MS. JENG: Sure.

5 HONORABLE LACK: That is very good. I looked on
6 JCOPE and nothing at all came, so I started to scroll down
7 and it went to a black screen. I thought somebody did not
8 like me.

9 MS. REITER: They may say, no, right, so let me
10 find out.

11 HONORABLE LACK: Well, I don't think they can say
12 no.

13 MS. REITER: I don't think they can. It is all
14 public information.

15 HONORABLE LACK: Yes. It is all under the Freedom
16 Information.

17 MS. REITER: Right. They are just not making it
18 easy. Let me see if I could get it and disseminate it to
19 everyone. If I can't I will let you know that and everybody
20 else know that as well.

21 MS. BIRNBAUM: Just to throw out a date, I am
22 looking at September 13th or 14th; does that work for you?
23 It is a Tuesday or Wednesday. Is that good for you?

24 HONORABLE COZIER: 13th works, 14th does not work.

25 MS. BIRNBAUM: Okay. Does the 13th work for
26 everybody else?

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HONORABLE LACK: Yes.

MS. REITER: Good for me.

MS. BIRNBAUM: Okay.

MR. JOHNSON: Yes.

HONORABLE LACK: The 13th we are coming back?

MS. BIRNBAUM: Tuesday the 13th.

HONORABLE LACK: Tuesday the 13th, yeah, that works for me.

MS. BIRNBAUM: So we will call a meeting on September 13th at 11:00, here, probably at the City Bar and we will put it on our website and we will try to get all the information that the Commissioners wanted so we will be in a position to have a discussion and perhaps a vote, unless people need more time.

Anything else we could do today? It was a short meeting, but I think it was a very helpful one to make a decision. (Pausing.)

MS. BIRNBAUM: Okay. We will adjourn this meeting. We stand adjourned until September 13th. Thank you.

(Discussion held off the record.)

(Whereupon, the proceedings concluded.)

* * *It is hereby certified that the foregoing is a true and accurate transcript of the proceedings.

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