

**SECOND QUARTERLY REPORT
[REDACTED FOR PUBLIC REVIEW]**

Of

**THE FEDERALLY-APPOINTED MONITOR FOR THE
UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY**

To

**Hon. Christopher J. Christie
United States Attorney
For the District of New Jersey**

**Prepared Pursuant to the
Deferred Prosecution Agreement
Dated December 30, 2005**

**By:
Herbert J. Stern, Monitor**

July 20, 2006

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EXECUTIVE SUMMARY

NOTE: What follows is a public version of the report made to the Honorable Christopher J. Christie, United States Attorney for the District of New Jersey on Wednesday, July 19, 2006 in accordance with paragraph 11c. of the Deferred Prosecution Agreement (the “DPA”) entered into between the United States Attorney and the University of Medicine and Dentistry of New Jersey (“UMDNJ”) and the Monitor Agreement entered into between UMDNJ and the Monitor. In an effort to promote transparency in the Monitorship, this is a public distillation of a report made to the United States Attorney. This public version has been redacted so as not to prejudice on-going investigations. Where possible we have indicated where redactions were made so that, at the very least, the public understands in what areas there are other lines of investigation in progress.

* * *

This second quarterly report summarizes the activities of the Monitor from and after the issuance of the First Quarterly Report and the two supplemental interim reports.

The Second Quarterly report details the progress that we¹ have made towards understanding and quantifying the extent of the “over-billing”², quantifying the extent of waste at UMDNJ, and completing each of the duties and obligations of the Monitor as outlined in the DPA. The report also includes certain recommendations made by the Monitor to address deficiencies identified in existing UMDNJ policies. It also details the

¹ For purposes of this report, the terms “Monitor”, “Monitor’s Office”, “Monitor’s staff”, “we”, “us”, and “our” shall include, in the appropriate context, the Monitor; the Monitor’s counsel, Stern & Kilcullen; J.H. Cohn; Sobel & Co.; Marc Savage & Co. search firm; and/or CMRW search firm.

² “Over-billing” has been the largely inaccurate term used publicly by various sources to describe a plethora of issues that resulted in the Federal or state government’s reimbursement of significant sums of money to UMDNJ to which UMDNJ was not entitled.

progress made on the 27 individual investigations that we have opened in the 28 weeks that have elapsed since the signing of the DPA, and the status of the major issues identified in the First Quarterly Report. Finally, the report details the unethical activities of UMDNJ Trustee Fred Sterritt who used his influence as a trustee to obtain employment for a relative at UMDNJ; *see pp. 44-47.*

At this stage of our review, losses due to “over billing”, “double billing” and waste could exceed \$243 million. But, it must be emphasized that we anticipate this amount may increase as we continue our work in this regard. Thus, the initial finding of \$4.9 million of fraud is a mere fraction of the potential fraud, waste, and financial abuse that has occurred at UMDNJ.

- As a result of the double counting of costs on the cost report related to the University Behavioral HealthCare (“UBHC”) for the period of 2001 through 2005, the New Jersey Medicaid Program was over billed over \$35.5 million. *See pp. 4-5.*
- Quantification of this same issue for time periods prior to 2001 could be in excess of an additional \$49 million. *See pp. 4-5.*
- As a result of the UBHC double counting of costs issue, New Jersey Charity Care was over billed \$11.7 million for the period of 2001 through 2005. *See p. 6.*
- Cost reporting errors that may lead to a reevaluation of UMDNJ’s nominal charge provider status also could jeopardize a \$51 million state appropriation. *See pp. 6-7.*

- Direct and Indirect Medical Education calculation errors may amount to an additional \$1 million owed to the government. *See p. 9.*
- Cost reporting errors related to adjustments to expenses for the cafeteria are \$155,500 for the period 2001-2005. *See p. 8.*
- From 2002 through 2006, unauthorized or inappropriate spending amounted to \$22,607,834. *See pp. 11-16.*
- From 1999-2006, UMDNJ spent \$3,893,160 on lobbying services, all of which was improperly authorized. *See pp. 16-17.*
- The UMDNJ Board has virtually no oversight on over \$104 million per year in blanket waiver funds. *See pp. 17-22.*
- From 2001-2005, UMDNJ paid over \$88,310,929 to various vendors without approved purchase orders. *See pp. 23-33.*

INVESTIGATIVE PLANS & PROGRESS

Set forth below is an update of the progress made on major issues on the investigative plans designed by us to carry out the provisions of the DPA.

Medicaid Liabilities

As we reported in the First Quarterly report, over and above the initial \$4.9 million of fraud committed by UMDNJ, there is a significant amount of federal funding that UMDNJ was provided to which it was not entitled. Shortly after our investigation began, a significant issue came to light with respect to UBHC. The issue at hand deals with the allocation of the cost of certain overhead items to UBHC on a line item of the cost report, that were already directly charged in a different section of the cost report -- meaning that UMDNJ was double counting the same expenses on its cost report submitted to the federal government. Thus, UMDNJ was being reimbursed by Medicaid twice for the same costs.

When the issue was revealed in a report analyzing the 2005 cost report by Parente Randolph, the liability amounted to approximately \$7 million for the year. Immediately thereafter, UMDNJ personnel involved with the preparation of the cost report quickly revealed to us that it was their belief, based on their review of the appropriate financial data, this same problem exists as far back as 1983. Thus far, JH Cohn³ has analyzed the

³ It should be noted that JH Cohn is now directly retained by UMDNJ and not the Monitor. While working on various investigations for the Monitor, JH Cohn was being requested to work on many items that were not within the purview of the DPA, but were essential to the basic financial functions of the institution. Completing these items was necessary for UH/UMDNJ to continue to operate. Thus, UMDNJ and the Monitor concluded that, in the best interests of UMDNJ, JH Cohn would serve as a UMDNJ consultant on a going forward basis. While JH Cohn still actively works to keep the Monitor informed of its continuing investigations at UMDNJ, including reviewing all bid waiver requests on a continuing basis, it also now serving as a critical component of the UH/UMDNJ finance team.

issue from 2001 through 2005⁴ and has determined that Medicaid was over billed (via the cost report) \$35,526,214. Attached hereto at Exhibit 1 is a copy of a spreadsheet detailing the \$35,526,214 figures. This figure does not include interest or penalties, which could be trebled if fraudulent behavior was involved.

Quantification of this same issue for the periods that UMDNJ personnel highlighted (1983-2000) could result in as much as an additional \$49 million liability. It is our recommendation that testing of previous years be conducted to analyze the full extent of the financial liability that may exist.

The following table is the year-by-year breakdown of amounts that the Medicaid program over-reimbursed UMDNJ:

Year	Medicaid
2005	(7,527,066)
2004	(9,564,894)
2003	(8,200,079)
2002	(5,534,175)
2001 *	(4,700,000)
5 Year Total	(35,526,214)

⁴ After notifying the fiscal intermediary for Central Medicare and Medicaid Services (“CMS”) of the Parente Randolph findings, CMS reopened three years of cost reports (2001-2003) and ordered an immediate audit of all of the open reports (2001-2005). Attached hereto at Exhibit 2 find a copy of the CMS notification dated April 6, 2006. This is the basis for UMDNJ’s decision to have JH Cohn audit only the past 5 years worth of cost reports. However, given the information provided by UMDNJ’s own personnel, significant liabilities may exist for years prior to 2001 for this and other issues. While JH Cohn has sampled one of the several items in the 2000 cost report that comprised the UBHC double counting problem from 2001-2005 and discovered that, for that one specific item, the double counting appears not to have occurred, it would be prudent for the federal government to address this issue for several years prior to 2001.

Secondary Financial Liabilities – State Liabilities

Charity Care

This UBHC double counting of costs issue impacts both cost based outpatient reimbursement for Medicaid, as outlined above, and Charity Care reimbursement. Since figures, specifically the ratio of cost to charge (“RCC”), that are calculated on the cost reports submitted to the federal government for Medicaid reimbursement are used in the computation of the State of New Jersey’s Charity Care program, errors on the cost reports would alter the amounts awarded to UMDNJ by the State as well. An analysis completed reveals that the impact of the Medicaid RCC, after making adjustments due to the UBHC duplication of cost allocation, for the period 2001-2005 resulted in \$11.7 million in overpayments by the State to UMDNJ from the Charity Care pool. See Exhibit 1.

Nominal Charge Provider/Supplemental State Appropriations

The quantification of the issue pre-2001 needs to be solidified as there are many secondary issues related to the duplicate UBHC cost allocation. Once audits are completed on years prior to 2001, another secondary issue related to the UBHC cost allocation is a reevaluation of UMDNJ’s status as a nominal charge provider. Essentially, this status means that the UMDNJ charged less than the cost of providing care. State legislation was enacted that would award any hospital that was a nominal charge provider for the years 1998, 1998, and 2000 a \$51 million appropriation. This special legislation was written in a way that did not directly accrue to the benefit of UMDNJ, but, given its charge structure as a nominal charge provider – the only hospital in the State with such status -- it was only applicable to UMDNJ. Attached hereto at Exhibit 3 is a copy of the legislative and budget language explaining the appropriation.

The cost reporting errors related to the double counting of UBHC costs could jeopardize UMDNJ's status as a nominal charge provider during the time period relevant to the award of the \$51 million. Thus, when the cost reports are rectified, it may cause UMDNJ to not qualify for this special appropriation, thus triggering a \$51 million liability back to the State of New Jersey. Of this \$51 million, approximately one-half were matching funds from the federal government.

Federal/State Liabilities Quantified Financial Issues	Time Period	Financial Liability
Cost Report – UBHC duplication of cost allocation	2001-2005	\$35,526,000
Charity Care Impact as a result of UBHC cost report issue	2001-2005	\$11,700,000
Cost Report – Adjustments to Expense – Cafeteria	2001-2005	\$ 155,500
Sub Total		\$47,381,500

Federal/State Liabilities Estimated Financial Issues	Time Period	Financial Liability
Cost Report – UBHC duplication of cost allocation	1983-2000	\$49,000,000 est.
Direct & Indirect Medical Education	2000-2004	\$ 1,000,000 est.
Sub Total		\$50,000,000 est.

Total of Quantified & Estimated Liabilities		\$97,381,500
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The financial issues above are a small portion of an overall work plan being executed to fully understand and quantify the extent of the various financial liabilities of

UMDNJ. There are a variety of open issues that could result in additional liabilities that are still under review. Those items are as follows:

Issue	Analysis	Est. Financial Impact
Charity care reimbursement		
Review reimbursement calculation of IP and OP claims for all years	Compare State's calculation of Charity Subsidy to the internal calculation with emphasis to the RCC% used for OP; Review state regulations on charity care for any changes that could impact the charity care calculation	(\$11.7M)
Analyze and determine the reasons for the significant deviations in Charity care reimbursement from 2001 to present	A trend analysis will be developed comparing claim volume, changes in RCC and charge increases. In addition, if overall State pool funding went up then the UMDNJ percentage of pool would go up – determine impact, if any.	
Review any special distributions outside the prescribed funding schedule	Review regulation and calculation of special funding.	
Charity Care Findings Summary	Summarize the process used to look at eligibility, audit of records and documentation supporting the claims.	
Cost report / reimbursement review		
Classification of Expenses on Worksheet A and Worksheet C	Review departmental groupings on Worksheet A and C to see if they were handled consistently.	\$30,500
Worksheet A-6 Reclassification of Expenses	Review all reclasses made by year for appropriateness. Interview Director of Reimbursement to determine if reclasses were missed.	
Worksheet A-8 Adjustments to Expense	Review all adjustments made by year, reconcile to Other Operating and Non Operating revenue in AFS. Review cash posting process to determine if cash is posted to non-revenue type accounts (such as allowances) that should have been identified as a recovery or adjustment.	(\$155,500) for cafeteria only

Issue	Analysis	Est. Financial Impact
Direct and Indirect Medical Education	<p>Review CMS audit findings associated to I&R, and determine if corrective action has been implemented.</p> <p>Review documentation to identify FTE count that is assigned to I&R; reconcile cost report FTEs to IRIS. Approach for further review will depend on documentation received.</p> <p>Review overlap letters from 2000-2005 and individual corrective action taken. Assess the policies that have been put into place to minimize overlaps. Approach for further review will depend on documentation received.</p> <p>Review reporting of available beds. Review reporting and documentation for resident training at off campus locations.</p> <p>Determine number of residents reported in non-accredited programs</p> <p>Research ability to increase per resident amount currently being held to nation wide floor</p>	<p>(\$1M) estimate for research portion only</p>
Medicare Bad Debts	<p>Compare reported Medicare Bad Debt from 2000 to 2005 looking for duplication over the years.</p> <p>Determine if the timing of write offs meet Medicare eligibility</p> <p>Request data dump of patient bad debt to determine unclaimed Medicare bad debts</p> <p>Sample 15 IP and OP claims from each year to assess collection efforts prior and after write off.</p>	<p>Under paid for 2001 to 2003 by \$198,000</p> <p>2004 reflects overpayment of \$384,000</p>
DSH Adjustments	<p>Review process for reporting Medicaid and Medicaid eligible days</p> <p>Reconcile days reported on the cost report to supporting documentation</p> <p>Review prior year disallowance from Medicare audits and determine if corrective action has been implemented.</p>	

Issue	Analysis	Est. Financial Impact
<p>Medicaid - Hospital based/provider based clinics</p> <p>(See DMAHS settlement dated 1/18/06 which recouped hospital based physician costs for years 1990 – 2004 totaling \$4.9M)</p>	<p>Obtain list of all physician practices reported on the cost report (included those reported as private practice)</p> <p>Review physician agreements for understanding of payment terms. Compare to actual payment practices.</p> <p>Assess appropriateness of physician based status for each practice/site</p> <p>Review report of billing procedures by hospital and physician prepared by Revenue Cycle for reimbursement analysis; if necessary, approach will be determined based on the findings of the billing review</p> <p>Verify that the hospital based physician cost was handled appropriately on the 2005 cost report</p>	
<p>University Behavioral Health Care (UBHC) (Allocation of hospital cost to UBHC)</p>	<p>Assess supporting schedules of UBHC direct expense and reconcile to GL</p> <p>Review statistics used for UBHC and assess impact on allocated expense</p> <p>Review reclasses of any UBHC expense for appropriateness. Interview Director of Reimbursement to determine if reclasses were missed.</p> <p>Recalculate cost reports (that have electronic back up at facility) to determine reimbursement impact of adjustments.</p> <p>Contact Medicare to see if they will supply the prior years from the CMS settlement files in electronic format</p> <p>If unable to get E, then develop model to calculate impact on years that have no electronic cost report or get software for early years and re enter the data in order to recreate cost report</p>	<p>(\$35M)</p>
<p>Provider Based Physician Compensation</p>	<p>Compare physician compensation reported in the cost report to time studies and Exhibit 2 of the Medicare Cost Report</p>	
<p>UBHC Cost Allocation issues 1993-1999</p>	<p>Follow same steps for earlier years as stated in 97 to determine settlement implications.</p>	
<p>Review written agreement between hospital and medical dental school for appropriateness of financial arrangement</p>	<p>Review agreements between hospital and medical school, and between hospital and other hospitals. Compare to actual payment practices and allocation of cost and FTE in hospital's cost report</p>	

Materials Management & Vendor Oversight Issues

In addition to the financial reimbursement issues outlined above, we have discovered significant issues that have resulted in the spending of tens of millions of dollars with no oversight, review, or approval by the UMDNJ Board and personnel in violation of UMDNJ policy and State statute. We began a review of various Materials Management processes at the inception of the Monitorship. We have encountered numerous violations of policies and procedures that likely resulted in the waste of millions of dollars. While the investigation in many areas continues, the sheer magnitude of the problems encountered thus far requires recommendation to be made at this time 1) to reform the contracting process at UMDNJ, including contracts that arise by public bidding or through waiver of the public bidding process; and 2) to address the post-contract oversight of vendors.

In response to concerns regarding UMDNJ's compliance with the policies and procedures related to UMDNJ's "Waiver of Bids" and "Solicitation of Bids/Awards of Contracts" policies, we examined documentation of selected Requests for Waiver of Public Bid ("RFW") at UMDNJ's Materials Management (purchasing) department.

Waiver of Bids

UMDNJ's policy "Waiver of Bids" 00-01-55-40:00, in accordance with state statute, N.J.S.A. 52:34-8-10, makes it unnecessary to advertise for any purchase, contract or agreement, negotiation, or award if the subject matter consists of:

- services that are technical and professional,
- perishable foods,
- lease of office space, office machinery, specialized equipment,
- the contract is to be made with the Federal or any State Government,
- public exigency,
- only one source of supply (sole source),

- favorable terms from a primary source, or
- the purchase is technical in nature and the procurement is necessary in order to assure standardization of equipment and interchangeability of parts

From this statute, the University has created a list of exceptions to the public bidding process:

- Technical and Professional
- Sole Source (only one vendor)
- Favorable terms (best price available)
- Standardization (interchangeability of parts)
- Public Exigency (emergency situation)

Attached hereto at Exhibit 4 is a copy of University Policy 00-01-55-40:00 “Waiver of Bids.”

The form to be completed by the requesting department, Request for Waiver of Public Bid, indicates in box number 10 and on the instruction sheet that competitive quotes should be obtained. Box number 10 states:

“Provide a brief and concise summary of nature and purpose of waiver. Explain what attempts were made to obtain competition. Attach all proposals, quotations, etc., received”.

The accompanying instruction sheet for the “Request for the Waiver of Public Bid” states:

“Explain how you went about getting competitive quotes or proposals for the purchase. Please provide the names of at least 3 firms you contacted and their response to your request for a quote or proposal. Even firms that refused to respond should be included. Explain how you came to choose the firms that you contacted. Typical criteria would be past experience, trade listings, telephone directory or professional references. Finally, explain why you are recommending the firm you did and why you are not recommending the others”.

Thus, bid waivers under the authorized criteria require quotes in order to determine the best possible vendor at the best price with the best qualifications.

As we discussed in the First Quarterly Report, Justice Stein only reviewed a small portion of payments and purchases made through the Materials Management department. Payments and purchases going through Materials Management were approximately \$362 million in 2005. However, total payments made by UMDNJ (excluding payroll) in 2005 were \$479 million. Thus, \$116 million in check request payments were not within the scope of Justice Stein's review.

Samples of the bid waiver files covering Fiscal Years (FY) 2002-2006 were examined by the Monitor. Materials Management received a total of 994 bid waiver requests by individual departments for this period. A total of 627, or 63%, of the bid waiver files was examined by us covering this time period. Of the files that were examined, 75 of the bid waivers detailed that work started or was completed by vendors **prior** to the request or approval of bid waiver. These 75 bid waivers resulted in a total of approximately \$7,189,729 in purchases. Thus, 12.9% of all bid waivers had work started prior to a bid waiver being requested and/or approved.

Depicted below are the statistics regarding bid waivers issued subsequent to commencement or completion of vendor work.

FY	# Bid Waivers	Bid Waivers Examined		BWs Identified as Requested after Work Commenced		Value of Work Performed Prior to BW
		#	%	#	%	
2002	257	181	70%	11	6.00%	\$ 999,770
2003	220	171	77%	30	17.50%	\$ 3,691,051
2004	170	127	74%	13	10.00%	\$ 1,499,479
2005	193	99	51%	11	11.00%	\$ 512,555
2006	154	49	31%	10	20.00%	\$ 486,874
Total	994	627	63%	75	Average 12.9%	\$ 7,189,729

Solicitation of Bids/Awards of Contracts

There are three UMDNJ policies and one waiver requisition form that govern, among other issues, the requirements for obtaining competitive quotes related to “Solicitation of Bid/Award of Contract”. These policies are as follows:

Requisition Process (Public bidding guidelines)	00-01-55-15:00
Solicitation of Bid/Award of Contract (Price Quotations)	00-01-55-20:00
Waiver of Bids (Bid waiver guidelines)	00-01-55-40:00
Request for Waiver of Public Bid (Requisition Form)	

Even though a waiver of public bid is at times authorized under these policies, the requirement to obtain competitive quotes is not eliminated. A summary of the “Solicitation of Bids/Awards of Contracts” policy is as follows:

1. Accountability
 - a. Noncompliance could result in termination and monetary penalties
2. Policy
 - a. Some purchases can be made without competitive review or telephone quotes as follows:
 - i. All purchases up to \$5,000 - requesting department may solicit telephone quotes or place orders directly but should attempt to use existing university contracts first
 - ii. All purchases between \$5,000 and \$10,000 - requesting department will attempt three telephone quotes - all quotes either by phone, letter or electronic must be forwarded to the Purchasing Department
 1. Purchases not amenable to public bid must be submitted with documentation substantiating noncompetitive nature
 - iii. All purchases between \$10,000 and \$24,000 - requesting department will attempt three written quotes - all quotes either by letter or electronic, must be forwarded to the Purchasing Department.
 1. Purchases not amenable to public bid must be submitted with documentation substantiating noncompetitive nature
 - iv. All purchases \$24,000 and over - attempt to solicit advertised bids

Attached hereto at Exhibit 5 is a copy of University Policy 00-01-55-20:00 “Solicitation of Bids/Award of Contracts.”

If an advertised bid is not feasible, the “Waiver of Bid” policy must be followed. This policy also states that a comparison of vendors should be made to identify the best vendor for the desired service. This is accomplished through quotes, proposals, or at the least, contacting additional vendors.

The same sample of bid waivers files were examined for the purpose of identifying whether bid waiver requests deviated from University policy related to “Solicitation of Bids/Awards of Contracts”; and in particular, whether a competitive quote was obtained by telephone or in writing. Of the 627 files examined approximately 55, or 10.6%, required competitive quotes. No competitive quotes were noted in these 55 files. The 55 bid waiver files included approximately \$15,418,000 in purchases where a competitive quote was not obtained even though competitive quotes were required by existing UMDNJ policy.

The reason that more files are not identified as “missing competitive quotes” is that the majority of the examined files met either the criteria of sole source (no other vendor can offer quotes) or a renewal for continuation of services by vendors already conducting services for the University. In the case of sole source, the requesting department simply expressed that the selected vendor is the only vendor that can provide the service, but did not supply any backup documentation in this regard. The determination that the vendor is a sole source is the opinion of the requesting department and was not verified. Regarding renewal for the purposes of continuing prior service, these files were not identified as lacking competitive quotes unless the original bid waiver file was examined; and it was determined that the original agreement between the University and the vendor was made without considering other potential vendors.

Depicted below are the statistics related to bid waivers that deviated from University policy.

FY	# Bid Waivers	Bid Waivers Examined		BW's Identified as Missing Competitive Quotes		Value of BW's Resulting From Work Performed without Competitive Quotes
		#	%	#	%	
2002	257	181	70%	15	8.3%	\$ 2,120,575
2003	220	171	77%	10	5.8%	10,439,711
2004	170	127	74%	7	5.5%	684,793
2005	193	99	51%	23	23.0%	2,174,026
2006	154	49	31%	-	- %	-
Total	994	627	63%	55	Average 10.6%	\$15,418,105

* * *

During the review of the 627 files, it was determined that approximately 130, or 20%, of those files were in violation of University policy relating to either “Waiver of Bids” or the “Solicitation of Bids/Awards of Contracts”. The total amount related to this unauthorized or inappropriate spending by UMDNJ is \$22,607,834.

* * *

Example - Government Affairs Deviation from University Policy

One of the many examples of public bid/bid waiver policy violations over the last several years occurred in the former⁵ Government Affairs Department. Government Affairs continuously entered into agreements with lobbyists with political affiliations without properly following University procurement policies.

⁵ In April 2006, Interim President Vladeck with approval from the UMDNJ Board consolidated the Government Affairs Department into the University Affairs Department and significantly reduced the government affairs staff.

Government Affairs employees that we interviewed were not aware of any public bids nor did they obtain quotes from other lobbyists in regard to public bids or the bid waiver process.

A sample of the lobbyist bid waiver files was reviewed. The review verified that management did not follow University policies regarding public bidding/bid waiver and quote requirements. Moreover, many of these lobbyists were retained and paid prior to the issuance of purchase orders or prior to the approval from authorizing department.

The lack of oversight of the contracting process is disconcerting because of the extreme likelihood, at best, of inefficiency, and, at worst, of fraud and abuse. Government Affairs representation of the University is the subject of an on-going investigation and shall be reported on at a later date. However, we have determined that from 1999 through 2006, UMDNJ spent \$3,893,160 on lobbying services, all of which was improperly authorized.

Blanket Waiver Deficiencies

Blanket waivers are pursued when departments have a recurring need that may include multiple items from multiple vendors to be procured within a specific fiscal year. As with individual bid waivers, blanket waivers must meet certain criteria established by New Jersey state law and UMDNJ policy.

The blanket waivers encompass the needs of multiple departments for multiple goods and services from multiple vendors under various categories of blanket waivers. In the past, Materials Management has conducted reviews of previous activity under established blanket waiver categories and determined what blanket waiver categories should be created or eliminated and whether the established dollar amounts under

existing blanket waiver categories should be increased, decreased, or kept the same for the coming fiscal year. The blanket waiver categories and amounts are determined for the fiscal year and a report is submitted to the Finance Committee. However, this occurs after the blanket waivers are put in place, and the report is for informational purpose only, not for the Committee's approval.

The monthly activity under each blanket waiver category is also included in the Finance Committee package as information only, not for approval. Interim blanket waiver activity reports are also submitted to the Finance Committee, but always for informational purposes, not for approval.

The Stein report addressed Blanket Waivers and Bid Waivers but was limited to \$190 million of the total payments made by the University. Many vendors are not compensated through the waiver process, but rather, are paid through the check request process. For example, in 2005, Johnston Communications was paid \$6.5 million through the check request process without ever receiving a waiver. This was not addressed in the Stein Report.

The Stein report determined that blanket waivers should be eliminated with the exception of certain limited categories. We agree. Our initial observation is that blanket waivers are being used to escape scrutiny under the waiver process, and may even be used as a form of "Pork" for projects. For example, in FY 2005, the Board was presented with a \$400,000 blanket waiver for continuing education. Upon review of the specific purchase orders assigned to this blanket waiver, it appears that inappropriate items, such as holiday parties, were assigned to this blanket waiver.

Moreover, the UMDNJ Board has NOT eliminated blanket waivers for the FY 2007 proposed budget. In fact, the amount of blanket waivers was only minimally reduced, that is, from \$108 million to \$91.4 million from FY 2006 to FY 2007. Attached hereto at Exhibit 6 is a spreadsheet comparing the FY 2006 to the FY 2007 proposed blanket waivers.

Risk Management Gaps in the Current Process

- **Blanket waivers are submitted to the Finance Committee for informational purposes only (i.e., not for approval).**

There is no approval of the blanket waivers by the Board of Trustees. The Trustees are only informed of the creation of blanket waivers. A summary activity report is also provided in the monthly Finance Committee package for informational purposes. In fiscal year 2006, the blanket waivers established by Materials Management totaled approximately \$108 million under 18 distinct categories. Based on 2004 expense figures (the most recent available), this represents almost 7% of all expenses reported by UMDNJ. This is a significant amount of expense that is not subject to Board approval.

- **Exposure control of UMDNJ to vendors under blanket waivers**

Within the blanket waiver process, activity with individual vendors is not proactively monitored. For fiscal year 2006, the establishment of blanket waivers was done by the category of blanket waiver; no breakdown of expected activity by individual vendor was included. Monthly reporting of activity under the blanket waivers did detail individual vendor activity, but the amounts were not cumulative from month to month throughout the year. This prevented the Board from monitoring total exposure, under blanket waivers, to vendors during the fiscal year.

Further, monthly reporting of activity under the blanket waivers provided no detail of other vendor activity independent of the blanket waiver activity (i.e. individual bid waiver, competitive bid). This prevented the Board from gaining an understanding of the total exposure or relationship to any specific vendor during the fiscal year.

It should be noted that the blanket waiver database (where the purchasing activities against blanket waivers are tracked) is separate from the Banner System (financial system). Although the database system verifies that there are no input errors in the entries, there is no automatic check between the database and Banner that verifies that all purchase orders in Banner issued under the authority of a waiver were entered into the database. It also should be noted that there is no ability in Banner to do this. Hence, the monthly blanket waiver activity report included in the Finance Committee package is reliant upon an intensive manual process, and, based on our observations over the previous six months, is prone to errors of omission.

- **Exposure control of UMDNJ to vendors under individual bid waivers under \$100,000**

Bid waivers under \$100,000 for a vendor are not tracked and reported to the Board.

This leaves several gaps in exposure control:

- A vendor may be the subject of activity under multiple individual waivers that are individually under \$100,000; but collectively can be more than \$100,000.
- A vendor may be the subject of activity through blanket waivers and individual bid waivers that individually are under \$100,000; but collectively can be more than \$100,000.

- **President's approval of individual bid waivers between \$50,000 and \$100,000**

Individual bid waivers above \$50,000 but under \$100,000 are approved by the President's office; however, this approval is not necessarily proactive and has not been evidenced by signature. Finally, as stated above, this bid waiver activity is not tracked and reported to the Board.

Recommendations

- **Require explicit Board approval of blanket waivers to improve vendor exposure control**

We recommend that blanket waivers be subjected to explicit approval by the Board before they are put into place and purchase orders issued. This will ensure the Board is aware of the establishment and activity under the blanket waivers.

Furthermore, we recommend that a vendor list with expected or budgeted dollar amounts be submitted for each blanket waiver. In addition, a summary report of all other activity with each vendor; including contracts won through competitive bidding or individual bid waivers of any amount should be summarized. This will allow the Board to understand the level of exposure to each vendor and how the exposure came about.

Year-to-date status reports of blanket waiver activity vs. budget by vendor should be submitted to the Board on a monthly basis. If any vendor is approaching the level of expected activity under the blanket waiver, this should be highlighted in the report and the Board should comment as to whether or not a breach of the expected activity with that vendor is approved *before* a breach occurs.

- **Lower the threshold of UMDNJ Presidential approval of bid waivers and require additional reporting to the Board of individual bid waivers to improve exposure control**

We recommend that, in addition to the current review process, all individual bid waivers above \$24,000 but below \$100,000 be subject to the explicit approval of the UMDNJ President's office or his designee. These waivers are currently being reviewed by JH Cohn. An electronic mail is sent out to inform the Monitor of the results. The results of this review should also be electronically sent to the President or his designee for review and approval. Once the UMDNJ President's office has reviewed these bid waivers, an e-mail with his approval should be simultaneously sent to the members of the Finance Committee and the committee should be allowed up to three days to comment on these individual bid waivers between \$24,000 and \$100,000 prior to the issuance of a purchase order by the Purchasing Department.

- **Recommended Board Reports for Blanket Waivers and Individual Bid Waivers**
 - *Blanket waivers:*
 - Year to date summary of blanket waivers with total purchase orders issued
 - Monthly summary of blanket waiver activity by blanket waiver category
 - Cumulative summary of blanket waiver activity by vendor for the fiscal year
 - *Individual bid waivers:*
 - Individual bid waiver packages greater than \$100,000
 - Summary of individual bid waivers greater than \$24,000 but less than \$100,000
 - *For both reports:*
 - Summary line item of active vendors including blanket waiver, individual bid waiver, and competitive bid for the fiscal year

Post Bid/Bid Waiver Vendor Oversight Deficiencies

The problems with the contracting process do not end with the approval of a bid waiver and the execution of a contract with a vendor for goods or services. We have determined that there is virtually no oversight over the millions of dollars of approved contractual relationships. We have discovered that this lack of oversight has led to the payments of tens of millions of dollars in excess of approved purchase order amounts. Finally, we have discovered that the work alleged to have been done by contractors is not being reviewed for completion and that vendors may be invoicing for services never rendered.

Example – Johnston Communications

One of the prime examples of post contract oversight deficiencies is seen with UMDNJ's relationship with Johnston Communications. [REDACTED]

A witness maintains that millions of dollars in purchases have been made from Johnston Communications without going through the normal approval process of obtaining purchase orders required by UMDNJ policy.

[REDACTED] The witness stated that individuals working for UMDNJ permitted the breaches in UMDNJ policy because of inappropriate relationships that exist between these UMDNJ employees and personnel of Johnston Communications. The Monitor has been able to document that Johnson offered, and UMDNJ employees accepted, a dinner cruise invitation in contravention of anti-gifting policies and State ethics statutes.

Copies of records show that Johnston Communications was awarded a contract to provide University-wide voice and data telecommunications services including: repairs,

additions, moves, changes, equipment and annual maintenance services as set forth in Request for Proposal (RFP) #P-96-0014. This contract was signed on June 19, 1996 by Johnston Communications and on June 17, 1996 by UMDNJ. The term of the contract was for one year and the University having the option to renew for four (4) one year periods. Attached hereto at Exhibit 7 are copies of all contracts and related documents referencing Johnston Communications.

Records disclose that the Johnston Communications contract was extended to accommodate a new Request for Proposal #P03-011. The start date of this contract was April 1, 2003 to expire March 31, 2008. The scope of work covered by this contract is to provide university-wide voice and data telecommunication repairs, additions, moves, changes and equipment and annual maintenance service agreement for all UMDNJ campuses.

A review of the University's Policy regarding purchases, "Requisition Processing", is found in 00-01-55-15:00. Section III.-A-1.-b. states:

All purchases must be made by completing the official University Purchase Requisition (which can be obtained from Stationery & Lab Supplies). Each Purchase Requisition is to be limited to those commodities which are similar in nature and that are ordinarily available from one vendor.

Section III.-A-1.-e. states:

Faculty or staff members are not authorized to procure goods and services or enter into a contractual relationship with a vendor. To do so, is a violation of university policy and the individual involved may be personally liable for payment to the vendor. Vendors should be advised that **all purchases chargeable to the University must be authorized by a University Purchase Order signed by the respective Purchasing Manager or his/her designated agent.**

Finally, section III.-A-1.-c. states:

A purchase requisition may not be used for various purchases or payments as outlined in EXHIBIT B.

EXHIBIT B excludes the following:

Reimbursement to employees for business expenses
Employee disability payments
Dues and membership fees
Utilities
Books and subscriptions
Refunds
Conference and seminar registration fees
Payroll withholding transactions
Postage
Lease payments
Fellowship and stipends

Other expenses are paid through the appropriate processing of the following forms:

1. **Loan Check Request** form for student loans and financial aid activity.
2. **Travel Advance and Travel Expense Reports** to process overnight trips and related expenses.
3. **Honoraria** form for fees and honorariums paid to speakers at meetings, assemblies, baccalaureate and commencement exercises.
4. **Workers Compensation** form for such related payments.

Expenses other than those listed above must be processed through the purchasing system. This can be accomplished by sending a Purchase Requisition to your Purchasing Department who will process as required. Please note that, according to UMDNJ Purchasing Policies, the issuance of a Purchase Order must occur before the expense is committed.

It must be emphasized that capital expenditures must be processed through a Purchase Order, not a Request

for Check. Capital expenditures are defined as equipment or renovations with a value in excess of \$500 and a useful life of more than one year.

Attached hereto at Exhibit 8 is a copy of University Policy 00-01-55-15:00 "Requisition Process."

UMDNJ Central Administration provided an analysis of payments to Johnston Communications for the Fiscal Years 2001 through 2006 that identified payments made with approved purchase orders and payments made without the purchase order. The results are summarized below:

Payments to Johnston Communications			
Fiscal Year	With Purchase Order	Without Purchase Order	Total
2001	\$509,083.13	\$2,593,228.22	\$3,102,311.35
2002	\$291,840.05	\$3,186,229.09	\$3,478,069.14
2003	\$1,133,244.21	\$5,125,462.90	\$6,258,707.11
2004	\$0.00	\$8,891,041.27	\$8,891,041.27
2005	\$0.00	\$6,561,665.45	\$6,561,665.45
2006*	\$3,887,009.89	\$2,981,040.91	\$6,868,050.80
	\$5,821,177.28	\$29,338,667.84	\$35,159,845.12

* Through 06-13-06

Attached hereto at Exhibit 9 is a copy of the full spreadsheet with PO references related to Johnston Communications from 2001 through 2006.

No UMDNJ employees could explain why Johnston Communications invoices during a six (6) year period FY 2001 through FY 2006 were paid without an approved Purchase Order as required by University Policy.

The most recent contract awarded Johnston Communications is for a term of five (5) years with an estimated cost of \$15,500,000. The Evaluation Committee Report

recommended an estimated annual cost of \$3,120,000. The Evaluation Committee consisted of four (4) employees of the IST Department and one (1) employee of the Purchasing Services department.

Central Administration staff has stated that, in general, policies call for approved purchase orders to be issued before an invoice can be paid. Purchase orders serve at least two purposes. Purchase orders are used as a vehicle to give the Purchasing Department an opportunity to assess whether or not a bid is appropriate and to validate that funds are available.

UMDNJ policy allows certain exceptions to the requirement to obtain a purchase order. An exception is granted for a payment to a company that is regulated by a public utilities board, for instance, Public Service Electric & Gas. Another is for a check request to reimburse employee travel and other expenses. Johnston Communications falls into either of those categories.

UMDNJ personnel could not explain the reason that for several fiscal years, 2001 through 2006, in excess of \$29 million of Johnston Communications invoices were paid without an approved purchase order. UMDNJ personnel suggested that any delay in payment would have an adverse affect on the relationship with the vendor and would cause a cessation or delay of future services and/or supplies provided by that vendor.

After a sampling of invoices, the investigation revealed that two Johnston Communications invoices, #74175 in the amount of \$301,660.77 and #74218 in the amount of \$466,757.90, both dated in June 2004 were paid without an approved purchase order. Neither had much detail included in the description.

Invoice #74175 (\$301,660.77) referenced a HEAT ticket number and showed the work as having been performed at the New Brunswick Campus in the Clinical Academic Building. An inspection of the referenced HEAT ticket revealed the work performed was the removal of spyware and a Trojan Horse from a desktop computer at University Hospital, Quality Assurance Department – an expense that would certainly not cost in excess of \$300,000. Attached hereto at Exhibit 10 are copies of the Invoice and HEAT ticket referenced above.

Invoice #74218 (\$466,757.90) referenced a HEAT ticket number and showed the work as having been performed at the Newark Campus in the Administrative Complex Building #2. An inspection of the referenced HEAT ticket revealed the work performed was to upgrade Liberty Plaza data network in New Brunswick. Attached hereto at Exhibit 11 are copies of the Invoice and HEAT ticket referenced above.

These two examples demonstrate that lack of oversight led to the overpayments to Johnston Communication by hundreds of thousands of dollars. More Johnston Communications invoices are being reviewed in order to reconcile the work performed with what was billed by Johnston Communications.

During the Fiscal Years 2001 through 2006, Johnston Communications invoiced and was paid a total of \$35,159,845.12. University Policy called for these payments to be authorized by approved purchase orders. Of the \$35,159,845.12 in payments, \$29,338,667.84 was not authorized by approved purchase orders.

There has been no reason advanced for this failure to adhere to University policy in relation to the majority of Johnston Communications payments. It should be noted that the recommendation of the Evaluation Committee impaneled for the latest award to

Johnston Communications recommended an estimated annual cost of \$3,120,000. UMDNJ records show that those figures were significantly overspent. It should also be noted that the four members of the Evaluation Committee from the IST Department are responsible for assigning the jobs to Johnston Communications.

As demonstrated by the two Johnston Communications invoices whose description of work could not be reconciled with the description entered in the HEAT system, a more complete and detailed analysis is warranted of all Johnston Communications purchases and the Information Systems and Technology Department is warranted.

Other Examples of Payments in Excess of POs - FY 2001-2005

FY	PO NUM	VEND NAME	PO Amount \$	Invoices/		Difference \$	Diff %
				Checks Issued			
fy02	P0131582	Joseph Jingoli & Son Inc	\$13,019,034.98	\$16,139,027.02		\$3,119,992.04	24.0%
fy03	P0157419	GE Medical Systems	\$0.00	\$3,024,655.56		\$3,024,655.56	-
fy01	P0068621	Siemens Medical Systems	\$0.00	\$2,200,000.00		\$2,200,000.00	-
fy03	P0162492	Arnanti Financial Services Inc	\$4,200,000.00	\$6,018,966.53		\$1,818,966.53	43.3%
fy01	P0072561	Turner Construction Co	\$0.00	\$1,756,906.46		\$1,756,906.46	-
fy02	P0136846	The Impart Group	\$781,434.31	\$2,484,604.77		\$1,703,170.46	218.0%
fy01	P0059205	Elekta Instruments Inc	\$0.00	\$1,607,981.20		\$1,607,981.20	-
fy04	P0181924	Cardinal Health	\$9,999,999.99	\$11,607,430.88		\$1,607,430.89	16.1%
fy01	P0015247	Creative Socio-Medics Corp	\$0.00	\$1,406,120.23		\$1,406,120.23	-
fy04	P0184192	Joseph Jingoli & Son Inc	\$2,169,520.33	\$3,455,052.56		\$1,285,532.23	59.3%
fy01	P0074830	General Electric Co	\$0.00	\$1,221,020.00		\$1,221,020.00	-
fy01	P0076113	CGI-AMS	\$0.00	\$1,180,045.49		\$1,180,045.49	-
fy05	P0222715	Dana Communications	\$408,916.26	\$1,263,404.00		\$854,487.74	209.0%
fy01	P0077763	Furia Roofing Co Inc	\$0.00	\$803,083.00		\$803,083.00	-
fy01	P0102969	The Impart Group	\$782,479.84	\$1,361,133.95		\$578,654.11	74.0%
fy02	P0115018	Dell Computer	\$2,432,430.56	\$2,999,997.00		\$567,566.44	23.3%
fy02	P0117763	Lewis Advertising Agency	\$0.00	\$550,005.25		\$550,005.25	-
fy01	P0026906	HBCC & Co	\$0.00	\$517,755.80		\$517,755.80	-
fy05	P0222106	Angelica Textile Services	\$340,000.00	\$844,658.05		\$504,658.05	148.4%
fy01	P0077764	Furia Roofing Co Inc	\$0.00	\$499,503.00		\$499,503.00	-
fy01	P0078827	Beth Israel Deaconess Medical Center	\$0.00	\$485,251.91		\$485,251.91	-
fy01	P0057408	University Of Washington	\$0.00	\$477,536.00		\$477,536.00	-
fy01	P0007131	Turner Construction Co	\$0.00	\$449,466.34		\$449,466.34	-
fy03	P0161434	Hyphen	\$1,542,871.18	\$1,982,626.84		\$439,755.66	28.5%
fy01	P0074205	Bell Atlantic	\$0.00	\$409,694.40		\$409,694.40	-
fy01	P0074929	Williams Communication	\$0.00	\$391,928.78		\$391,928.78	-
fy01	P0074394	The Impart Group	\$0.00	\$390,151.46		\$390,151.46	-
fy02	P0130298	Computer Sciences Corporation	\$127,025.00	\$508,100.00		\$381,075.00	300.0%
fy02	P0139391	Amersham Biosciences	\$120,833.26	\$500,000.00		\$379,166.74	313.8%
fy03	P0146275	Boston Scientific Vascular	\$46,433.64	\$424,521.12		\$378,087.48	814.3%
fy04	P0198576	GE Medical Systems	\$448,862.47	\$821,408.00		\$372,545.53	83.0%
fy01	P0057408	University Of Washington	\$0.00	\$362,915.00		\$362,915.00	-
fy02	P0114950	The Impart Group	\$1,252,136.76	\$1,596,000.00		\$343,863.24	27.5%
fy01	P0009649	Consort Technologies Inc	\$0.00	\$336,741.05		\$336,741.05	-
fy01	P0079689	GDS Mechanical Inc	\$0.00	\$334,450.00		\$334,450.00	-
fy01	N269096	Ficom Corp	\$0.00	\$334,235.00		\$334,235.00	-
fy01	P0074766	General Electric Co	\$0.00	\$318,531.00		\$318,531.00	-
fy01	P0045514	IDX Systems Corporation	\$0.00	\$307,149.93		\$307,149.93	-
Subtotal			\$37,671,978.58	\$73,043,938.83		\$35,371,960.25	93.9%
Total			\$210,926,383.88	\$299,237,313.04		\$88,310,929.16	41.9%

Recommendations

- Requests for POs and RFWs must be approved by the manager of the requesting department. These managers should be held accountable for allowing the vendor to perform services prior to final approval from Materials Management.
- A clause should be included in the vendor's contract that if services are performed outside of the scope of the agreed upon contract, the vendor will not be reimbursed

for the unauthorized services. Furthermore, the University should abide by their own policy and refuse to reimburse these vendors.

- The Materials Management Department must decline to generate POs and RFWs for requesting departments that allow work to start prior to approval.
- Checks and balances can be performed by reviewing the Banner system if the Banner system is revised. Additional columns should be added to the vendor history file to include Service Start Date, Service Stop Date, Quotes Number 1, 2, and 3 including Vendor name and Amount, and if a commodity, a Delivery Date. These entries would allow the manager of the requesting departments and the Director of the approving department (purchasing, Materials Management, and Legal Management) quickly identify when POs, RFWs and contracts are to expire, run low on funds, and if work was started prior to the approval date. It would also allow the requesting department to follow the progress of its request.
- The manager of the requesting department must be advised not to order services without the proper approval. Department heads should be held accountable for unauthorized purchases.
- The University's policy on obtaining quotes from competing vendors is very vague. The guideline on requesting quotes should be clearer.
- The University's policy on bid waivers is also vague. Even though the policy is based on N.J.S.A. 52:34-8-10, the University should place additional restrictions on the criteria that would allow for the issuance of bid waivers. The University should more clearly define the criteria and situations in which the University is exempt from advertising for public bids.

- Whether the original agreement was legitimate or not, an attempt should be made to submit services for public bid at the expiration of an agreement. Not all industries can be included in this recommendation. For instance, if a vendor is very involved in the workings of the University, it might not be cost efficient to change vendors in the middle of a project. However, if a computer firm is chosen as a sole source, there is a possibility that in the following year or two, another computer firm might have developed better technology, or another office supply vendor might offer a better price. A contract should automatically be renewed with a specific vendor only if a more highly qualified vendor or a better price cannot be obtained through an advertised public bid, or due to the lack of a response to an advertised bid.
- Existing vendors should be evaluated on a quarterly basis. Through the interviews that were conducted, it was learned that some vendors have not submitted any documentation as to the work accomplished. Meanwhile, requesting departments continuously ask for renewals.
- Purchasing agents should be more specialized. Presently, purchasing agents handle POs, RFPs or public bids, bid waivers, etc. These duties should be separated for efficiency, experience, and legitimacy.
- Vendors that are part of an unauthorized purchase should not be automatically approved for a PO or a RFW. These services should be sent out for public bid, or if not feasible, quotes from competitive vendors should be sought. The present practice is to allow the vendor to continue servicing the University.

- The use of the broker Novation should be rethought. Novation is a broker that professes to seek out the best vendor at the lowest cost. Some of the services provided by Novation are also under State contracts. Novation appears to outbid the State contracts. The difference is that the State contracts include delivery, installation, and service in their quotes, Novation does not. It may appear that Novation finds the lowest priced vendor, but many times the final cost is higher than that of the other vendors once the additional expenses are added to the invoice. The University does not realize this discrepancy until after the services have been completed.
- Another situation that should be examined is the agreement with Corporate Express and Strategic. Corporate Express is an office supply vendor that submits invoices to the University for \$30 to \$40 million each year. Strategic is the broker that gets a commission for receiving the order from the University and placing it with Corporate Express. Services from vendors such as Corporate Express should be bid out each year rather than just renewing the contract. Strategic involvement should be reevaluated as to their purpose as a broker. An online catalog identifying the contracted items would restrict purchases only to those items approved by the University and eliminate need for a broker. If the University believes it needs a broker, then this service should also be put out for public bid.

FY 2005 Audit

As was reported in the First Quarterly Report, during the Fall of 2005, PWC first indicated to UMDNJ that there were open items relating to the Fiscal Year 2005 UMDNJ financial picture that concerned PriceWaterhouse Coopers (“PWC”) and were preventing

completion of the audit. This occurred prior to the execution of the DPA and the Monitor Agreement. The FY 2005 Audited Financial Statement still has not been produced by PWC. UMDNJ, with assistance from JH Cohn, have been working towards satisfying all of the “open audit items” identified by PWC.

Failure to complete the audit is having significant ramifications on accreditation, bond ratings, federal funding, and grant funds. We remain concerned about the issuance of audited financial statements as the list of open items presented by PWC continues to grow. Interim President Vladeck has appropriately identified the FY 2005 Audited Financial Statements as a top priority for UMDNJ management.

Accreditation/Compliance with Monitor’s Recommendations

We have made two official recommendations to UMDNJ in accordance with provisions of the DPA.

Presidential Search.

On February 10, 2006 and, again, on June 15, 2006, we made a formal written recommendation that the UMDNJ Board of Trustees take steps to begin the search for a permanent President for the institution. These recommendations were made pursuant to DPA paragraphs 10(a), 11(b), 11(g), and 28. Such recommendations are based on our overriding concerns regarding the stability of the institution and adverse affects of a long-term interim Presidency on UMDNJ’s financial standing, employee morale, accreditation, and its ability to recruit senior leadership. Attached hereto at Exhibit 12 are copies of my correspondence to the Board of Trustees.

At the June 27, 2006 Board of Trustees meeting the Chairman of the Board of Trustees addressed the issue of a Presidential search. The UMDNJ By Laws for the Governance of UMDNJ require a Presidential search to include consultation with representatives selected by the faculty, student body, alumni of all schools, and the community. UMDNJ By Laws, Section 1.2 issued (September 14, 1999). It was our hope that this process would begin immediately as it was likely to take some time to organize and implement.

At that meeting, instead of commencing the search by organizing a search committee, the Board decided to extend the contract of the Interim President to its maximum one-year term (a six-month extension of the initial six-month term) and the Chairman formed an ad hoc committee to examine possible amendment of the By Laws related to the search process. After waiting nearly six (6) months to commence the search for a new President, the Board has acquiesced to the Chairman's desire to commence a new process which will result in further delay.

The Chairman's rationale to change the search process for a new President is curious. The Chairman indicated that the By Laws may be amended to streamline the selection process by excluding important constituencies that are necessary to properly select a President. In the University setting, the input of the faculty, alumni and student bodies are critical to the success of the incoming President. Without buy-in from these groups, the next permanent President is likely to be a target of criticism from these groups.

This ad hoc committee/by law amendment committee will only cause a longer delay in selecting a permanent President. After what will certainly be a few months of

review by the ad hoc committee, per the UMDNJ By Laws, amendments to the By Laws must be presented to the UMDNJ faculty for their review and comment for a period of 60 days before being adopted by the Board of Trustees. Thus, under the Chairman's proposed plan, the University will not even begin the search process for several months. Adding on the several months that will be needed to conduct the search and interview process, UMDNJ would be fortunate to have a permanent President before the Summer of 2007. The current term of the Interim President expires in March of 2007.

It is absolutely crucial to create stability in the leadership of the institution. It has been exceedingly difficult to recruit for the positions of General Counsel and Chief Compliance Officer in this uncertain environment. The Chairman's plan will only increase delay in an unavoidably laborious process.

We have been advised that following our reference of this matter to the Office of the United States Attorney, Christopher J. Christie, the Chairman has abandoned his intention to alter the By Laws and has initiated a search for a new President consistent with the existing By Laws.

Creation of the Corporate Compliance Office/Audit Committee

On March 20, 2006, we made written recommendations to the UMDNJ Board of Trustees, pursuant to paragraphs 10(a) and 10(b) of the DPA, to create the position of the Chief Compliance Officer ("CCO"), to establish an Audit Committee as a separate committee of the Board of Trustees, to create the Corporate Compliance Office, to bifurcate the corporate compliance function and the internal audit function, and to dedicate the proper financial resources to the Corporate Compliance Office in the FY 2007 budget. Attached hereto at Exhibit 13 is a copy of the Monitor's March 20, 2006

correspondence to the Board of Trustees. To date, little has been done to implement these recommendations. While this is a significant undertaking, these recommendations were made after significant input from UMDNJ leadership, including President Vladeck and UMDNJ Chief of Staff Jim Rowan.

The University originally indicated that it hoped to hire a Chief Compliance Officer to gain his or her insight as to the final structure of the Corporate Compliance Office. We have been advised that Dr. Vladeck has made an offer to a CCO candidate; that the candidate has accepted the position; and that assuming Board approval, the candidate shall begin in mid-August. The time has come to begin the processes to establish the office regardless of the status of the CCO search. The process most certainly will require a significant amount of work from the Board, human resources, the finance department, the chief of staff, operations, and materials management – all of which can take place without the CCO in place.

Moreover, discussions still are taking place in Board meetings as to whether a separate audit committee is necessary. The Chairman of the Board is unsure as to the need for separating the finance and audit functions; while the Chairman of the Audit Committee, in looking to implement best practices, is convinced that the audit function and the finance function are two very distinct operations. Our recommendations were premised on the fact that a separate audit committee was necessary to address the plethora of internal audit and compliance issues that are going unaddressed as we speak. The work of the audit committee should be a significant undertaking that can not be diluted by the work of the finance committee.

* * *

The most sure sign that change in these two areas needs to happen immediately is that UMDNJ has been placed on “probation” by the Middle States Commission on Higher Education (the “Commission”) citing these two topics (of only three that it raised). By letter from the Commission dated June 26, 2006, the University is required to provide a monitoring report to the Commission by October 15, 2006 on how UMDNJ has addressed “stabilization and reformation of the Institution’s Board and executive leadership” and “appropriate oversight and control over the institution and its activities.” Attached hereto at Exhibit 14 is a copy of the Middle States letter to UMDNJ. It is no coincidence that these are the two issues about which we have been concerned from the inception of the Monitorship and about which we have made written recommendations.

Charity Care Reimbursement

Separate and apart from the Charity Care issues addressed above in conjunction with the UBHC duplication of cost allocation, we have been investigating the significant increase in University Hospital charity care funding by over \$30 million between 1998 and 2000. The Hospital’s charity care funding has continued to increase since 2000, although not at the same pace. There have been allegations that University Hospital manipulated their billing practices in order to “game” the charity care subsidy. Parties have also questioned the rather significant increase in the volume of charity care patients treated at University Hospital during the same time period. This matter is under review and will be reported on more thoroughly in a subsequent report.

CHIEF COMPLIANCE OFFICER SEARCH

After a difficult and laborious search for a compliance officer candidate, UMDNJ has concluded its interviews of candidates and has made an offer to another Chief Compliance Officer (“CCO”) candidate subject to Board approval. We had recommended this candidate for the General Counsel position, but the Board has concluded that he is better suited for the Chief Compliance Officer position. We have no objection to that determination. We are advised that the candidate will accept the position. We are encouraged that the CCO will be in place shortly and our broader recommendations related to a Corporate Compliance Office will be put in place.

GENERAL COUNSEL SEARCH

On May 11, 2006, we recommended four candidates for the position of General Counsel to the UMDNJ Board of Trustees. The Board and representatives of the administration have interviewed these candidates. There was one candidate that the Board apparently sought to hire, but they could not agree upon the terms of employment. We recommend that the Board resolve the issue of severance or guaranteed contract for new hires at the most senior levels of management so that this issue does not hamper the Board’s ability to attract quality candidates. The Monitor and the GC search firm continue to search for qualified candidates who will be reasonably acceptable to the Board.

HOTLINE MONITORING

On January 5, 2006, we established a telephone and electronic mail hotline pursuant to paragraph 11f of the DPA. All hotline emails and telephone calls go directly to our law office. No personnel at UMDNJ have access to the secure email or telephone hotline. We have ensured that the identity of those reporting information is kept confidential and that there are no repercussions for attempts to assist us. Email and telephone access to the hotlines is maintained off of UMDNJ grounds.

We have received 95 telephone calls to the hotline that contain substantive information. We have received 124 pieces of electronic mail. A number of on-going investigations have grown from the information garnered from hotline leads.

The hotline has proven to be enormously useful to the Monitor's office. It has provided people with the ability to confidentially provide the Monitor with important issues to review, many of which have been the subject of our reports. We encourage those with information relevant to our work to contact us.

INDIVIDUAL INVESTIGATIONS

The purpose of this section is to present a status as to the various investigations involving integrity issues as they relate to individuals, small groups of individuals, or a particular department of the University or one of its eight schools. For all cases with a “pending” status reports will be made to the Office upon completion of our investigation.

Case 1001 – STATUS: COMPLETE; PREVIOUSLY REPORTED

An investigation of Robert Saporito and his expense account abuses lead to his resignation from the position of Senior Vice President of Academic Affairs.

Case 1002 - STATUS: COMPLETE; PREVIOUSLY REPORTED

An investigation of UMDNJ Trustee Donald Bradley lead to his non-reappointment to the UMDNJ Board.

Case 1003 - STATUS: PENDING

[REDACTED]

Case 1004 STATUS: PENDING

[REDACTED]

Case 1005 STATUS: COMPLETE; PREVIOUSLY REPORTED

The analysis of the Government Relations Office and UMDNJ’s engagement in inappropriate political activities was reported on in the First Quarterly Report.

Case 1006 STATUS: COMPLETE

OSI is currently the collections agent for UMDNJ. OSI was recently fired from its State Treasury contract for providing Treasury officials with gifts in violation of state

statute. The purpose of this investigation was to determine if OSI has provided gifts to UMDNJ officials. No evidence of illegal or unethical activity on the part of UMDNJ personnel was discovered.

Case 1007 STATUS: COMPLETE

We received an allegation that a current member of the UMDNJ Board of Trustees exerted undue influence to obtain employment for a relative in violation of State ethics rules and State statute. Our investigation confirmed that Trustee Fred Sterritt, D.D.S., made repeated telephone calls urging members of the Human Resources Department and to individual departments of UMDNJ to find a position for his relative. It has been concluded that by virtue of his office, numerous employees contacted directly, and even those indirectly aware that a Trustee was interested in finding employment for a relative, felt pressured to exceed accepted practices in order to hire the Trustees' relative.

On or about July 2004, and continuing through the period of December 2004 -- when his relative was eventually employed -- Trustee Sterritt contacted at least five members of the Human Resources Department, an associate Dean, several members of the Legal Department, and several employees of University Behavioral HealthCare ("UBHC") which was the relative's eventual and current employer.

HR personnel indicated that Trustee Sterritt was "very involved" and "persistent" in the matter of his relative's hiring. They considered this "interference unprofessional" and "unacceptable." However, HR personnel who had received numerous telephone calls and electronic mail communications from senior staff about Trustee Sterritt's relative, personally felt pressured and believed that senior staff felt pressured to find employment for this relative at all costs. The Monitor has been able to document that Trustee Sterritt

directly pressured the head of Human Resources to find his relative a job at UMDNJ. In fact, senior staff advised HR personnel that it would be best to find Trustee Sterritt's relative employment before the September 2005 Board of Trustees meeting – the next time that senior staff would see Trustee Sterritt.

While searching and contacting various departments searching for employment for this individual, HR personnel became concerned about whether this relative legally could be hired as they vaguely recalled a recent statute prohibiting such hires. HR personnel contacted senior staff about this issue and was assured that Legal Management had told senior staff that it was acceptable as long as the relative did not reside with the Trustee. HR personnel had the relative's curriculum vitae circulated on all campuses which they indicated was not a routine practice.

Other HR personnel indicated that they were informed that this person – the Trustee's relative – was a "VIP" and that action needed to be taken quickly on his employment. HR personnel indicated that they were contacted directly by Trustee Sterritt and felt pressured to do whatever it took to find his relative a job. In fact, after unsuccessfully interviewing for at least two positions, HR personnel indicated that a position within UBHC was downgraded from a titled position for which the Trustee's relative was unqualified to a position for which he could meet the minimum basic experience qualifications. According to UBHC personnel, however, the relative was paid at the higher salary of the titled position for which he did not qualify.

Prior to the hiring of his relative, Trustee Sterritt approached the senior staff with UMDNJ about helping his relative find a job. We have confirmed that these senior staffers afforded the Trustee's relative personal interviews. Some senior staff indicated

that they did not feel pressured to hire this relative, but did, based on the interview, refer the Trustee's relative to lower level staff. Many employees of the business unit that eventually hired the Trustee's relative who were interviewed believed that the Trustee's relative was being forced upon them.

Perhaps the most disconcerting issue, other than the clear unethical behavior of a University Trustee, was the complete breakdown of the compliance system and administration. In June of 2005, UMDNJ personnel received and investigated this allegation concerning the ethics violation of Trustee Sterritt. UMDNJ personnel conducted a complete review of the matter, interviewing all relevant witnesses, and researching the legal and ethical standards. In a report issued on June 27, 2005, it was concluded that Trustee Sterritt had violated the UMDNJ Code of Ethics: General Conduct and state statute, N.J.S.A. 52:14-7.1.

The statute states:

A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency, or instrumentality of the State shall not be employed in an office or position in that independent authority, board, commission, agency, or instrumentality.

The UMDNJ Code of Conduct states:

No University trustee, officer, faculty or staff member shall use or attempt to use his or her position at the University to secure unwarranted privileges or advantages for himself, or others.

Nothing was done based on this report. This system failed the University.

Pursuant to paragraph 10i of the DPA we are notifying Governor Corzine, through his counsel, of this ethical and legal violation by Trustee Sterritt.

Case 1008 STATUS: COMPLETE

It was alleged that certain senior faculty members abused the University's sabbatical policy. The investigation has not revealed any abuses or shortcomings in the faculty sabbatical program.

Case 1009 – STATUS: PENDING

[REDACTED]

Case 1010 – STATUS: PENDING

[REDACTED]

Case 1011 – STATUS: COMPLETE; PREVIOUSLY REPORTED

An investigation of Warren Wallace lead to his termination from his post as Associate Dean at the School of Osteopathic Medicine.

Case 1012 – STATUS: COMPLETE; PREVIOUSLY REPORTED

An investigation of Michael Gallagher lead to his resignation from the position of Dean of the School of Osteopathic Medicine.

Case 1013 – STATUS: PENDING

[REDACTED]

Case 1014 – STATUS: PENDING

[REDACTED]

Case 1015 – STATUS: COMPLETE; PREVIOUSLY REPORTED

Case 1016 – STATUS: PENDING

[REDACTED]

Case 1017 – STATUS: PENDING

[REDACTED]

Case 1018 – STATUS: PENDING

[REDACTED]

Case 1019 – STATUS: PENDING

[REDACTED]

Case 1020 – STATUS: PENDING

[REDACTED].

Case 1021 – STATUS: PENDING

[REDACTED]

Case 1022 – STATUS: PENDING

[REDACTED]

Case 1023 – STATUS: PENDING

[REDACTED]

Case 1024 – STATUS: PENDING

[REDACTED]

**Case 1025 – STATUS: CONSOLIDATED W/ SEPARATE
INVESTIGATION**

**Case 1026 – STATUS: CONSOLIDATED W/ SEPARATE
INVESTIGATION**

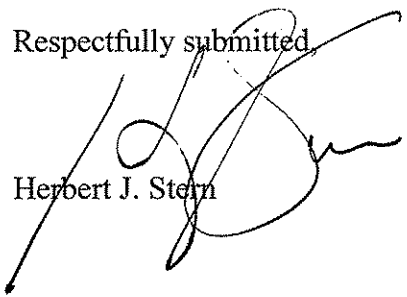
**Case 1027 – STATUS: CONSOLIDATED W/ SEPARATE
INVESTIGATION**

* * *

We will, of course, update the United States Attorney's Office as to the status of the above investigations at the time of our next report.

Respectfully submitted,

Herbert J. Stein

A handwritten signature in black ink, appearing to be 'HJ Stein', is written over the typed name 'Herbert J. Stein'. The signature is fluid and cursive, with a large loop for the 'S'.