

El Paso
City Employees' Pension Fund

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PENSION ADMINISTRATION

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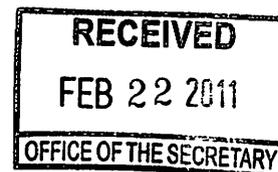
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February 17, 2011

Elizabeth M. Murphy, Security
Securities and Exchange Commission
100 Street NE.
Washington, DC 20549-1090



Re: SEC Release No. 34-63576; File No. S7-45-10.

Dear Secretary Murphy:

On behalf of the City Employees Pension Fund of the City of El Paso, Texas (“the Fund”), I submit the following comments in response to the Security and Exchange Commission’s invitation for comments regarding SEC Release No. 34-63576.

In the second full bulleted paragraph on page 51 of Release No. 34-63576, the Commission states that it is proposing to exclude from the definition of “municipal entity” elected members of a governing body of a municipal entity, but not appointed members of a municipal entity’s governing body. The Fund believes that such a distinction is neither warranted nor justified as it applies to public pension plans such as the Fund. The Fund, therefore, respectfully urges the Commission not to adopt its proposal to treat appointed members of the governing body of a public pension plan (but not elected officials serving on that governing body *ex officio*) as excluded from the definition of “municipal entity” for the purpose of the definition of “municipal advisor” in 15 U.S.C. §78o-4(e)(4)(A). The Fund respectfully urges the Commission to treat all members of the governing body of a municipal public pension fund, elected or appointed, as part and parcel of the “municipal entity” for the purposes of 15 U.S.C. §78o-4(e)(4)(A).

Second, the Fund notes that the subject proposal appears to be a response to a brief single paragraph on the second page of the September 28, 2010 letter from the Kutak Law Firm. The Fund respectfully directs your attention to the fact that said letter did not purport to have been written on behalf of any municipal entity, the governing body of any municipal entity, or the governing body of any public pension plan. The letter cited no legal authority for its reasoning and conclusions, and simply reflects the mistaken personal views of its author. The letter should not be relied upon by the Commission in analyzing and construing the parenthetical language of 15 U.S.C. §78o-4(e)(4)(A).

Third, the Fund submits that excluding appointed members of the governing body of a municipal pension fund from the definition of “municipal entity” for the purposes of the definition of “municipal advisors” in 15 U.S.C. § 78o-4(e)(4)(A) effectively eviscerates the provisions of Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) and the policies underlying such statute. See 15 U.S.C §78o-4(a)(1)(B) and §78o-4(c)(1).

Finally, the Fund is a creature of municipal law. It was created by a city ordinance. The same city ordinance delegates the responsibility of governing the Fund to a Board of Trustees (“the Board”), consisting of elected city employees, elected public officials who also serve on the governing body of the City of El Paso, and persons appointed by the Mayor with the consent of the governing body. The Board retains the services of various professionals, including investment consultants and investment managers who advise the Board on investment matters. By law, the Board can only act collectively, and no individual member of the Board, appointed or otherwise, has any power or authority to act apart from the collective action of the Board at a public meeting of the Board. Although all members of the Board have equal authority to participate by vote in the actions and decisions of the Board, no individual Board member can bind the Board or dictate to the other members of the Board how to act. The distinctions proposed by the SEC have no basis in fact.

Thank you for your attention.

Sincerely,


Juan Sandoval
Chairman