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February 22, 2011

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

Re: File Number S7-45-10

Dear Ms. Murphy:

I am submitting these comments on behalf of the University of Alaska (the "University," a constitutionally created corporation) and two affiliated entities, the Education Trust of Alaska (a statutorily authorized Section 529 trust) and the University of Alaska Foundation, Inc. (the "Foundation," a Section 501(c)(3) Public Charitable Organization), in response to your request for comments with respect to Securities Release No. 34-63576 Proposed Rules, Registration of Municipal Advisors.

These entities are highly dependent on members of the community serving as unpaid volunteers on the executive boards and investment committee. As many as 45 individuals serve on the University Board of Regents, the Foundation Board of Trustees, or their common Investment Committee making decisions regarding municipal securities and/or the investment of governmental funds. These uncompensated private individuals could be required to complete elaborate and time-consuming forms, pay annual registration fees of \$500 to \$600, as well as be subject to federal fiduciary standards, continuing education requirements and potential testing, and certain undefined "pay to play" regulations.

I respectfully request that the Securities and Exchange Commission (Commission) make it clear in its final rule that a board member is not to be considered a municipal advisor based solely on activities that are required or expected of a decision maker or principal of a municipal entity. The primary role of such board members and committee members is to function as decision makers or principals for the entity. The governing boards and decision making committees are such an integral and essential component of a municipal entity that they cannot be considered separate from the municipal entity. This principle is the very core of our democratic form of government. In its simplest form, a municipal entity consists of the governed, and the governed, or their representatives, participate in the decision making of the entity itself. Board members are simply not employees; they are an integral component of the entity itself.

Ms. Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
Re: File Number S7-45-10
February 22, 2011
Page 2

The University periodically issues municipal bonds (\$120 million currently outstanding), invests its operating funds of approximately \$150 million, administers certain self-directed employee defined contribution pension funds totaling approximately \$400 million, and serves as Trustee for the Education Trust of Alaska (Alaska's 529 College Savings Program) with assets of approximately \$4.2 billion. The Foundation administers and invests gifts and endowments held for the benefit of the University totaling approximately \$250 million. The boards of these organizations consists of an 11 member Board of Regents appointed by the Alaska Governor and confirmed by the legislature, a 28 member self-perpetuating Foundation Board of Trustees, and a ten member common Investment Committee appointed by the Foundation Board Chair in consultation with the Board of Regents Chair.

The Dodd-Frank Act amendments to Section 15B of the Exchange Act of 1934 require that "municipal advisors" register with the Commission and with the Municipal Securities Rulemaking Board (MSRB). The subject release indicates that the Commission believes that members of a municipal entity's governing body, who are not elected ex officio members, should be excluded from the definition of "employee" for purposes of determining his or her status as a municipal advisor. This interpretation misrepresents the relationship of a governing board member to a municipal entity and will have an unwarranted and serious adverse impact on the ability of the University and its affiliated organizations, as well as the thousands of similarly situated entities, to recruit unpaid volunteers when they are subject to unnecessary and onerous registration requirements.

The volunteers recruited for public service by municipal entities are generally pillars of the community, local business people, contractors, doctors, attorneys and other professionals. The proposed interpretation of "municipal advisors" would force those volunteers to undergo significant disclosure requirements, as well as incurring filing expenses and professional fees, continuing education requirements, and perhaps testing, not to mention the impact of "pay to play" rules. We urge you to avoid adopting rules that would have the effect of inhibiting qualified professionals from volunteering to provide public service, from having open and frank discussions as appointed members of a board or committee or from participating in the political process.

Today, we have governing board members who are apprehensive about discussing or voting on finance or investment issues because it may constitute the as yet undefined "advice," which might trigger a registration requirement. This is evidence that one of the obvious impacts of the Commission's interpretation will be a limitation or constraint on public discussion of relevant issues regarding investments and municipal securities in order to avoid discussions that might be considered "advice." I also expect that boards will transfer more decision making authority to staff (exempt employees) in order to avoid registration issues. Both of these eventualities will be a serious detriment to good governance, which the Dodd-Frank Act was intended to enhance.

Ms. Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
Re: File Number S7-45-10
February 22, 2011
Page 3

I find it difficult to understand how a board member, who is the actual decision maker and the highest level of principal within the municipal entity, can be construed to be an advisor to the entity. The decision makers are the recipients of advice from many sources and expected to make decisions based on a careful evaluation of that advice and his or her personal and professional knowledge and experience.

The basic problem with the proposed interpretation is not simply the artificial distinction between elected and nonelected members, but more fundamentally the proposed rule fails to recognize that the governing board of a municipal entity cannot be a municipal advisor to such entity. The municipal entity acts through its governing body, which is necessarily comprised of individual members. Accordingly, the exception for "municipal entity" should properly be interpreted to mean all governing body members.

The municipal entity acts collectively through its governing body, which is comprised of individual members. When fulfilling their roles on the governing body, the individual members are not providing advice to the municipal entity. Instead, they are deliberating and acting. In making their collective decisions, the governing body relies on advice from otherwise registered financial advisers.

In closing, please reconsider the interpretation that any board member might be determined to be a municipal advisor based solely on activities that are required or expected of a decision maker or principal of a municipal entity. The governing boards and decision making committees are such an integral and essential component of a municipal entity that they cannot be considered separately.

Thank you for the opportunity to comment on the proposed regulations.

Respectfully,



James F. Lynch

cc: Patrick Gamble, President
Roger Brunner, General Counsel
University of Alaska Board of Regents
UA Foundation Board of Trustees
Investment Committee
Alaska's Congressional Delegation