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February 22, 2011

Sent via email to: rulecomments@sec.gov

Attn: Elizabeth Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

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

Dear Chair Shapiro and Members of the Commission:

Thank you for the opportunity to comment on the regulations proposed in Securities Release No. 34-63576 for implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I am specifically responding to the second full bulleted item on page 51 of the above Release.

I am writing to urge respectfully that the Commission not adopt its proposal to treat appointed members of the governing body of a public retirement system as municipal advisors. I submit that it is unwise public policy to classify any members of public retirement boards as municipal advisors.

I have very recently been selected by the Council of the City of San Jose to serve on the Board of Administration of the Federated City Employees Retirement Board. I was selected only after completing an extensive evaluation process, including completing a lengthy application form that focused on relevant experience I possessed and on any possible conflicts of interest I might have possessed and including an in-depth interview before a review committee. It was by no means a perfunctory process. It was my introduction to the world of oversight and accountability I entered by volunteering to serve on the Board of Administration.

In my employment life, I serve as assistant treasurer, retirement investments to a major US corporation located in Silicon Valley. My employment responsibilities expose me on a day-to-day basis to capital market issues and investment issues. I have been addressing these types of issues for over twenty years. One primary focus of the interview process that led to my appointment was an inquiry into the knowledge and experience I possessed that would be of direct relevance to the Board of Administration in its efforts to manage its portfolio of approximately one billion dollars in domestic and international fixed income, equity, and other securities. As I understand it, the membership of the Board in the past may not have not included Board members with this type of experience and expertise. It appears to have been the consensus of the City Council and other municipal stakeholders that the lack of investment experience and expertise in the past had not benefited the investment performance of the system's assets and that it would be very desirable to add such qualities to the Board.

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I am serving as a volunteer. I do not expect any compensation and will only receive the small stipend (\$150 per meeting) that is dictated by City's Municipal Code, even though I anticipate devoting a significant amount of time to Board business. I have offered myself as a Board member out of a sense of civic duty. I understand better than most the extent of the commitment I am assuming. The complexities of asset allocation, risk management, investigation of new asset classes and tracking performance of existing investment managers for a portfolio the size of this one for a plan with a time horizon of a public retirement system is both daunting and intensely interesting for an individual of my background.

I am aware of the level of accountability and oversight that accompanies the position that I am assuming. I have already filed the "assuming office" statement detailing my financial assets and income required by the Fair Political Practices Commission and the City's conflict of interest addendum. I understand that I will have to file a similar form annually. I further understand that my forms and the disclosures in them are subject to public inspection. I further understand that the Board meetings are open to the public, are usually televised, and available for viewing on the web. I understand that Board activities are the subject of scrutiny from reporters of the San Jose Mercury News, with editorials frequently addressing issues of retirement system funding and City contribution levels. Civil grand juries convened by the judges of the Santa Clara County Superior Court pursuant to state law can and have investigated activities of the Board and issued public reports. The City Auditor, a position established in the City Charter, can and has conducted performance audits, not financial audits (which are performed by outside auditors), of the Board and its activities. I understand that employees of the City who are members of the system, the employee organizations that represent those employees, and the retirees and beneficiaries of the system all have a keen interest in what I do, what I say, and the actions I take as a Board member. I welcome such oversight and accountability.

What I had not bargained for is registration with the SEC and the Municipal Securities Rulemaking Board as a municipal adviser. As a matter of logic and plain meaning, it seems distinctly odd to treat an appointed Board member such as myself as some type of municipal adviser who is either selling investment products to the Board or is consulting with the Board with respect to such products in return for compensation. It seems to me a confusion of the fox with the hens. I will be scrutinizing such advice in my role as a Board member, not offering it. I will be one of the fiduciaries, each of whom possesses the duty to consider and weigh the advice the Board will receive. It seems counterintuitive to include me with the real advisers to the Board.

The issues raised by the Release extend beyond issues of logic. I imagine you are aware and have already discounted the time and expense of completing the various registration forms that will be required if the Commission adopts the proposed rule. I imagine you have already discounted the enhanced legal liability from a new legal source, i.e., the Dodd-Frank Act, to which I will be subject under the proposed rule. But I am concerned that you may not have sufficiently considered and weighed the element of ambiguity inherent in registration. You may not have reviewed the many forms from the perspective of how they will apply to appointed Board members. I think it is fair to say that they were drafted to address far different factual situations and that they contain a measure of breadth that will have unforeseen consequences when applied to the retirement board context. Whether the forms require detailed information about my employer is something that does concern me and is not sufficiently addressed by the current forms that exist and may not be addressed in the additional forms that will be forthcoming. In the aggregate, I think that it is not unreasonable to conclude that the proposed rule will create a very substantial disincentive for outside citizens with relevant experience from serving on public retirement boards.

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I respectfully urge you to reconsider the substantial disincentive you would be creating for service on public retirement boards by adopting the proposed rule. I respectfully urge you to review the current discussions occurring all across the country of the plight of public retirement systems and the severe financial burdens they are imposing on state and local public employers. This is a public policy issue of very significant dimensions. Such boards clearly are in need of Board members who understand the many issues facing the Boards, including the investment challenges they face. To deprive retirement boards of the service of investment professionals as Board members would immediately and directly impede the Boards in the fulfillment of their difficult responsibilities.

I thank the Commission for considering these comments and welcome any questions you may have regarding them.

Sincerely,



Stuart Odell