

**REPORT OF THE SPECIAL COMMITTEE OF THE BOARD OF DIRECTORS**

**UNIVERSITY OF MARYLAND MEDICAL SYSTEM**

December 11, 2019

**Members of the Special Committee**

Jason Frankl (Chair)  
Kathleen Birrane  
Wanda Draper  
Bonnie Phipps  
John T. Williams

**LATHAM & WATKINS** LLP

## TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY .....	1
II.	INVESTIGATION SCOPE AND PROCESS .....	4
III.	BOARD MEMBER CONFLICTS OF INTEREST .....	5
IV.	FINDINGS AND OBSERVATIONS.....	14
A.	Board Policies Concerning Potential Conflicts Of Interests Failed To Foster Rigorous And Effective Board Oversight.....	14
1.	2011 Policy Change Permitted Directors To Avoid Full Board Review And Approval Of Business Transactions That Benefited Them Personally .....	15
2.	Existing Policies Were Poorly Understood.....	16
3.	Board Members Failed To Adequately Engage In Review Of Conflicted Transactions .....	16
4.	The Conflict Of Interest Policies Permitted Board Members To Lobby Purchasing Executives On Behalf Of Personal Business Interests.....	18
B.	Conflicts Of Interest And Structural Defects Rendered Audit And Compliance Committee Oversight Ineffective .....	18
C.	Failure To Observe Term Limits Allowed A Limited Number Of Board Members To Exercise Disproportionate Influence .....	19
D.	Purchasing And Disbursement Policies Permitted Management To Engage In Significant Transactions Without Board Oversight.....	20
E.	Transactions With Board Members Eroded The Effectiveness Of Board Oversight.....	22
V.	SPECIAL COMMITTEE RECOMMENDATIONS .....	23
A.	Board Structure .....	24
B.	Conflict Of Interests.....	25
C.	Compliance Training, Education, And Review .....	26
D.	Finance Practices .....	27
E.	Other Recommendations.....	28

## I. EXECUTIVE SUMMARY

By resolution adopted September 9, 2019, the University of Maryland Medical System (“UMMS” or the “Company”) Board of Directors (“Board”) established a Special Committee (the “Special Committee”) to conduct a forensic audit of the Board’s financial transactions with the Company, review the adequacy and effectiveness of the Board’s governance policies and practices, and make recommendations for improvements. Specifically, the Board delegated authority to the Special Committee to: (1) oversee an internal forensic audit of transactions and financial relationships relating to the scope of recent legislation;<sup>1</sup> (2) analyze transactions and financial relationships identified through the internal forensic audit; and (3) advise the Board regarding governance practices, process improvements, and remediation, recovery, and corrective actions based on the above review and analysis. The investigation was initiated after a series of reports published by *The Baltimore Sun*, beginning in March 2019, on financial transactions between UMMS and nine (then-current) Board members (“Board members” or “Directors”)<sup>2</sup> or their related businesses or a family member’s business.

The Special Committee was comprised of five Board members: Jason Frankl (Chair); Kathleen Birrane; Wanda Draper; Bonnie Phipps; and John T. Williams. All five members, who are also members of the Audit and Compliance Committee (“ACC”), were appointed to the Board in June 2019 and began their service as Directors on July 1, 2019. The remaining two ACC members, James C. “Chip” DiPaula, Jr. and Barry Gossett, served on the Board prior to June 2019 and therefore recused themselves from serving on the Special Committee.

The Special Committee retained Latham & Watkins LLP (“Latham”), an independent law firm, to conduct the investigation, and Latham retained Ankura Consulting (“Ankura,” together with Latham, “Investigating Counsel”) and other advisors to conduct research and targeted forensic accounting analysis, including with respect to financial disbursements and accounts payable systems. Latham and Ankura had no relationship with UMMS at the time of either’s retention and acted solely at the direction of the Special Committee and independently of management. Latham and Ankura did not, and do not, represent any current or former UMMS employee or Board member in connection with this investigation.

The Special Committee’s investigation began by gaining an understanding of the Company’s policies and control environment, particularly policies over transactions between the Company and Board members (generally referred to herein as “conflict of interest” or “COI” transactions), and policies related to procurement and payment processing. A detailed discussion of the relevant control environment is presented in Section IV.A. Investigating Counsel then developed a detailed history of current and former Board members’ business and financial interests based on the Directors’ disclosure forms and public records. Investigating Counsel reviewed the procedures and findings of an earlier investigation by management advisory firm Nygren Consulting (“Nygren” and the report produced therefrom the “Nygren Report”) and was asked by the Special Committee to expand substantially the nature and scope of the procedures

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<sup>1</sup> See Chapters 18 and 19, Laws of Maryland 2019, Section 3(a).

<sup>2</sup> The nine former Board members are: August Chiasera, John Dillon, Wayne Gardner, Frank Kelly, Robert Pevenstein, Catherine Pugh, Scott Rifkin, James Soltesz, and Walter Tilley.

used by Nygren to identify and analyze transactions with Board members. Ankura reviewed thousands of transactions recorded in the disbursement systems of UMMS and its affiliates to identify potential transactions between UMMS, its Directors, and their immediate family members. Latham led a review of more than 100,000 email communications collected from 17 current and former senior executives, including nearly 44,000 communications with Board members. Following this review, Investigating Counsel conducted more than three dozen interviews of Board members, former Board members, and current and former members of senior management to provide context and explanation for transactions and other matters identified through the investigation. The Special Committee met in person or telephonically with Investigating Counsel at least weekly during the investigation to receive updates and provide direction.

The Special Committee received cooperation from all current UMMS employees and Board members and received access to all requested corporate records and information, including privileged and confidential business information. Certain former Board members and former senior executives declined to cooperate. These individuals either declined or failed to respond to requests for interviews.<sup>3</sup> The Special Committee did not have subpoena power or other legal process to compel cooperation from non-employees of UMMS.

The results and conclusions of the Special Committee's investigation are contained within this Report of the Special Committee of the Board of Directors ("this Report"). Based on the evidence obtained, the Special Committee found that the vast majority of Board members had no identified conflicts or business relationships with UMMS at all. Investigating Counsel reviewed the background and business and financial interests of 40 current and former Board members—all members who served on the Board for any part of 2016, 2017, 2018, or through June 2019—and the business and financial interests of their immediate family members. Those business and financial interests were matched against thousands of records in the payment and vendor databases of UMMS and its nine affiliate hospital systems. For 30 of the 40 current and former Board members, the Special Committee found no conflicts of interests, business relationships, or inappropriate financial transactions with UMMS. For the 10 Directors who had some type of conflict, all had reported them as required by the policies in place at the time.<sup>4</sup>

However, the Special Committee determined that, prior to July 2019, significant aspects of the Board's effectiveness as an oversight and decision-making body were deeply compromised, not only by the self-interested transactions of a group of Board members, but by structural and operational flaws in the Board's organization and operation. The policies governing conflicts of interest were both *ineffective* and *incomplete*. In fact, the Special Committee did not identify many clear *violations* of UMMS policies; in the majority of cases, the COI transactions technically complied with the policies in force until 2019. But those policies allowed conflicted transactions to proceed and multiply, without careful or objective review, approval, or oversight of such transactions by the Board. Specifically, the policies allowed conflicted transactions to be channeled to the ACC, which often struggled to find

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<sup>3</sup> See Attachment A, List of Witnesses.

<sup>4</sup> See Attachment B, Lists of Directors Reporting No Conflicts and of Directors Reporting Conflicts.

members to attend its meetings and whose chair had multiple conflicts of interest himself. As a result, there was very little evidence of Board-level reviews or discussions of COI transactions. (Tellingly, certain current and former Board members and senior management could not agree whether the failure of the Board to engage in rigorous review of conflicted transactions was because management failed to adequately raise the conflicts for Board review or, on the other hand, because Board members were inattentive to the materials provided to them.) The evidence obtained during the investigation showed that the written policies were poorly understood, and often misunderstood, by Board members and senior management alike. While the policies may have been followed at a technical level (the evidence is inconclusive), the inadequate design and understanding of the policies rendered the control environment substantially ineffective.

Furthermore, the policies were *incomplete* in that they seemingly allowed Board members to lobby management on behalf of their financial interests without adequate controls or disclosure. The Special Committee found that certain Board members frequently contacted members of management to promote potential transactions with businesses in which the Board member had a financial interest. Although many of these contacts did not result in transactions with the Company, the review and discussion of the potential business relationships occupied significant staff time and resources. Staff members, including senior management, often felt obligated to review the proposals outside of the normal procurement process even when they knew the business relationship was unlikely to be approved by, or be beneficial to, the Company. In many cases, these potential business arrangements were pursued by Board members without full disclosure in advance of the particular Board member's relationship to the offering company – though management often assumed that the Board member had a financial interest in the company whose proposal they were reviewing.

The Special Committee's investigation further identified significant deficiencies in the Board's historical structure and operations. Board member term limits are intended to provide periodic rotation of Board membership and leadership and prevent entrenchment that can pose a risk to effective oversight of management. The investigation found that senior executives and Board leaders actively pursued strategies that would allow certain Board members to serve beyond the two-consecutive-term limit, while others rotated off the Board after one or two terms. This practice created a cadre of Board members that many perceived to hold all the policy-setting and decision-making power of the full Board. In many cases, the Board members with the most significant conflicts of interest had served beyond the two-consecutive-term maximum. The override of this control fostered the very entrenchment the policy was meant to prevent. Other deficiencies in Board committee leadership and structure also contributed to control failures, for example, failing to periodically rotate leadership of Board committees and permitting a single individual to chair multiple committees. Together, these factors undermined the Board's functioning as an effective oversight body.

Importantly, the Special Committee's concern about the Board's conflict of interests and structural flaws is not to say that these Board members acted solely or even primarily out of self-interest. Even those who reported troubling conflicts of interest demonstrated genuine devotion to the mission of UMMS over many years. Moreover, some who reported conflicts had not used their Board position to advance or expand their business and personal interests, but had agreed to serve on the Board following the establishment of a business relationship with UMMS.

But the real world impact of weak and conflicted governance is not merely theoretical. When an organization's directors, trustees, or leaders give up their independence in exchange for personal interests, the organization loses the benefit of having a body of credible, skilled, experienced, and professional leaders. To be sure, some conflicts of interest on a board of directors, especially a large one, are inevitable and not necessarily detrimental to good governance, when rigorous and effective procedures are followed. Yet when conflicts dominate a board, it no longer acts as a safeguard of the company's values, and management no longer sees it as a helpful partner in making good decisions.

At the end of this Report, the Special Committee has provided recommendations to address the deficiencies observed during the investigation. The recommendations are not intended to be exhaustive, nor are they presented as the only feasible and effective solutions. It should also be noted that many of the recommendations have been or are already in the process of being implemented under the direction of the Board's Nominations and Governance Committee and UMMS management. Nonetheless, the Special Committee believes it is important to note that significant changes should be undertaken to address the deficiencies described below.

## **II. INVESTIGATION SCOPE AND PROCESS**

This Section provides a summary of the investigation scope and process. The Special Committee, in consultation with Investigating Counsel, determined the scope of the investigation and the number, type, and purpose of the procedures to be used.

At the Special Committee's direction and supervision, Investigating Counsel assessed historical Board and Company governance practices and policies, including practices and policies regarding the disclosure, review, and approval of transactions or financial relationships implicating conflicts of interest. Investigating Counsel reviewed each of the COI transactions reported on the directors' disclosure forms, as well as transaction and disbursement data from UMMS and its affiliates and email communications between Board members and UMMS senior management for a nearly four-year period. Investigating Counsel paid special attention to senior executive management's involvement in the review and approval of actual and potential COI transactions and whether those transactions complied with applicable policies. The investigation also assessed the operation and effectiveness of corporate controls over conflicts of interest and the procurement-to-payment process. Finally, and as discussed below, the investigation considered other matters, as determined and requested by the Special Committee. Investigating Counsel's investigation included the following procedures:

- Review of UMMS policies and controls, including the UMMS Amended and Restated Bylaws ("Bylaws"),<sup>5</sup> Board and Company conflict of interest policies, Company procurement and disbursement policies and controls, the Company's Code of Conduct, and Company political activity policies;

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<sup>5</sup> See Exhibit 2, the Bylaws. The Bylaws reviewed by Latham and discussed herein have been in place since approximately 2000. These Bylaws are undergoing a revision process that, as of the date of this Report, is anticipated to be finalized in December 2019.

- Review of Board member disclosures for all Board members who served during the past four years (2016-2019);
- Identification of businesses potentially affiliated with Board members or their immediate family members;
- Review of Board and committee meeting minutes (2010-2019);<sup>6</sup>
- Review of files, memoranda, and processes of prior investigations;
- Review of documentation and disbursement records for COI transactions (2016-2019);<sup>7</sup>
- Review of email communications of 17 current or former Company employees, from January 2016 to the date of collection (September or October 2019 depending on the custodian), including all communications between these UMMS employees and any Board member who served from 2016 to June 2019. The review focused on, but was not limited to, communications regarding discussions of businesses potentially affiliated with Board members or their immediate family members. Investigating Counsel collected more than 2.7 million documents, ran search terms to identify potentially relevant communications, and reviewed over 100,000 communications;
- Interviews with 38 witnesses, some multiple times, including current members of UMMS management, former members of UMMS management, current Board members, and former Board members; and
- Forensic accounting, including testing of disbursement, vendor, and corporate credit card data, and review of supporting documentation for certain disbursements and related-party transactions. Investigating Counsel employed a risk-based approach based on a number of factors, including the magnitude of the disbursement, expense patterns and timing, and the nature of the potentially affiliated business or transaction.

At the direction of the Special Committee, the investigation’s scope and procedures were regularly modified and expanded as necessary based on the evidence obtained and additional questions raised. Investigating Counsel reported directly to the Special Committee with no obligations to other Board members or management. In addition, Investigating Counsel regularly conferred with the Company’s public auditors, KPMG LLP (“KPMG”).

### **III. BOARD MEMBER CONFLICTS OF INTEREST**

This section provides a summary of the Special Committee’s conclusions concerning specific COI transactions with Board members. The COI transactions with Board members included: (1) direct transactions between UMMS and a Director; and (2) transactions between

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<sup>6</sup> With review of some earlier meeting minutes for specific purposes.

<sup>7</sup> With targeted review of documents predating 2016.

UMMS and entities with which a Director or Director's family member had a financial interest or other affiliation.

**Dillon Consulting Agreement** – In September 2012, then-UMMS President and Chief Executive Officer Robert Chrencik, on behalf of UMMS, entered into a consulting agreement with John Dillon via a letter agreement providing that Mr. Dillon be paid a \$13,000 monthly retainer in exchange for engaging in certain fundraising, community outreach, acquisition, and expansion endeavors. The agreement was subsequently renewed annually through 2019. The agreement was not made through a request for proposal (“RFP”) bidding process. All payments to Mr. Dillon reviewed by Investigating Counsel were approved by an authorized manager pursuant to the UMMS Authority to Commit Resource Matrix (“Authority to Commit Matrix”)<sup>8</sup> (described below). In each of the relevant years, Mr. Dillon disclosed receiving \$13,000 monthly on his annual disclosure form. The arrangement was disclosed to the ACC and to the Board as a whole at various times; however, there is no evidence of any discussion of, review of, vote on, or approval of the arrangement by the Board. Despite the annual disclosures, certain members of senior management and most Directors expressed surprise at the existence of the arrangement and insisted that it had not been disclosed.

The letter agreement required Mr. Dillon, who, at that time, was Chair of the Shore Health System Board, to undertake activities that were consistent with the basic expectations for a Board member, including fundraising, strategic planning, and community relations. For example, the 2018 version of the agreement stated his duties as follows:

- Work directly with the Shore Health System (SHS) President, Capital Campaign staff, and other constituencies in meeting the goals of the SHS Capital Campaign, resulting in the construction of a new medical center.
- Assist in SHS strategic planning and serve as community outreach liaison, advising UMMS on matters pertinent to providing high quality medical services to the SHS patient base.
- Communicate and work with the UMMS President and CEO and his staff on matters relating to hospital acquisitions and the expansion of the Medical System.<sup>9</sup>

Payment for services normally expected of Board members would, on its face, violate the Bylaws and governing law. According to interviews with Latham, Mr. Dillon and senior executives who had been aware of the arrangement at the time characterized Mr. Dillon's services as far above what would normally be expected for a volunteer Board member. They stated that Mr. Dillon spent more time on normal Board member duties compared to a typical Board member. Mr. Dillon estimated he spent on average 25 hours per week on these duties, a fact that could not be corroborated by extrinsic evidence. Other than the amount of effort and time, there was no other distinction between Mr. Dillon's “consulting” and a Board member's basic duties. The Special Committee concluded that there was a lack of evidence that the

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<sup>8</sup> See Exhibit 1, Authority to Commit Matrix.

<sup>9</sup> August 1, 2018 Letter Agreement between Robert Chrencik and Mr. Dillon.

consulting agreement with Mr. Dillon was approved by the Board as required and, therefore, violated the volunteer services bylaw and governing law.

**Pevenstein Consulting Agreement** – In January 2018, Mr. Chrencik, on behalf of UMMS, entered into a consulting agreement with Robert Pevenstein via a letter agreement providing that Mr. Pevenstein be paid \$15,000 monthly. The agreement was extended in 2019. The agreement was not made through an RFP bidding process. All payments to Mr. Pevenstein were approved by an authorized manager, Jerry Wollman, the then-UMMS Senior Vice President and Chief Administrative Officer, pursuant to the Authority to Commit Matrix. On his annual disclosure form, Mr. Pevenstein reported receiving more than \$100,000 annually from UMMS in both 2018 and 2019. The arrangement was disclosed to the ACC, which was chaired by Mr. Pevenstein, and to the Company’s external auditors, KPMG; however, there is no evidence of any discussion of, review of, vote on, or approval of the arrangement by the Board.<sup>10</sup> Mr. Pevenstein declined to be interviewed by Latham.

For several years before the agreement, Mr. Pevenstein, while a Board member, had been actively pursuing business opportunities with UMMS, including on behalf of Profit Recovery Partners (“PRP”) and the Optimé Group (“Optimé”). Senior executives involved in purchasing stated in interviews that it was widely assumed, if not known, that Mr. Pevenstein had financial ties to the companies that he introduced to UMMS. Senior executives described the consulting agreement as part of UMMS’s cost-reduction goal, as Mr. Pevenstein was knowledgeable about efficiency solutions in health care. The same executives acknowledged that a consulting arrangement with the ACC Chair was not ideal, but characterized it as an imperfect “work around” to allow Mr. Pevenstein to earn income from UMMS for bringing cost-saving technologies and services to the Company in exchange for forgoing business opportunities that benefited him personally. The agreement did not make this trade off explicit. Under its terms, Mr. Pevenstein could—and did—continue to promote companies in which he had a financial interest, for example, Renew International (discussed below). At least one senior executive raised concerns about the agreement with Mr. Pevenstein, particularly as the ACC Chair, with another senior executive and was told that such agreement was already approved by Mr. Chrencik. Finding business partners and vendors who could offer cost-saving technologies and services for the benefit of UMMS would not normally be considered a Board member duty, and thus payment for such work *could* qualify for additional payment if reviewed and approved by the Board. However, the Special Committee concluded that there was a lack of evidence to

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<sup>10</sup> It is unclear whether then-Board Chair Stephen Burch was aware of the arrangements with Mr. Pevenstein or Mr. Dillon. Mr. Burch has previously said he did not know about the consulting agreements. According to former UMMS Chief Financial Officer (“CFO”) Henry Franey, he asked Mr. Chrencik to inform Mr. Burch of the agreement because Mr. Franey understood a consulting agreement with the ACC chair was problematic. Neither Mr. Burch nor Mr. Chrencik agreed to be interviewed as part of this process. As such, Mr. Franey’s account could not be verified.

indicate that the consulting agreement with Mr. Pevenstein was approved by the Board as required and, therefore, violated the volunteer services bylaw and governing law.<sup>11</sup>

**Profit Recovery Partners** – UMMS entered into a service agreement with PRP on March 1, 2013. That agreement was extended for an additional 24 months on February 1, 2019. The agreement with PRP was not made through an RFP bidding process. All payments to PRP reviewed by Investigating Counsel were made via the purchase order to payment process. In each of the relevant years, Mr. Pevenstein disclosed commissions received from PRP on his annual disclosure form. Mr. Pevenstein’s relationship with PRP was disclosed to the ACC and to the Board as a whole numerous times; however, there is no evidence of any discussion of, review of, vote on, or approval of the agreement by the Board. The Special Committee understands that the relationship with PRP was terminated in October 2019 and that PRP is winding down its services.

**The Optimé Group** – In January 2016, UMMS entered into an agreement with Optimé that included services to optimize workforce strategy and deployment at the University of Maryland Rehabilitation and Orthopedic Institute and a licensing agreement for software. This agreement was not made through an RFP bidding process. All payments to Optimé reviewed by Investigating Counsel were made via a blanket purchase order. In each of the relevant years, Mr. Pevenstein disclosed commissions received from Optimé on his annual disclosure form. Mr. Pevenstein’s relationship with Optimé was disclosed to the ACC and to the Board as a whole numerous times; however, there is no evidence of any discussion of, review of, vote on, or approval of the agreement by the Board.

**AFLAC** – UMMS and certain of its affiliates entered into a Business Associate Agreement with AFLAC in 2017. All payments to AFLAC reviewed by Investigating Counsel were made via the check request process. Certain of the payments made to AFLAC were approved by an authorized manager pursuant to the Authority to Commit Matrix; however, with regard to certain other payments, it is unclear whether the Authority to Commit Matrix was followed. In each of the relevant years, Mr. Pevenstein disclosed that his son, Scott, received commission payments related to UMMS employees that voluntarily enrolled in and paid for AFLAC. Scott Pevenstein’s relationship with AFLAC was disclosed to the ACC and to the Board as a whole numerous times; however, there is no evidence of any discussion of, review of, vote on, or approval of the agreement by the Board.

**Revenew International** – UMMS entered into a contract with Revenew International (“Revenew”) in July 2018 for a construction audit of Capital Region Medical Center as part of its 2018 Internal Audit plan. The contract with Revenew was made through a sole source procurement method. All payments to Revenew were made via the blanket purchase order to payment process. On his annual disclosure form in August 2019, Mr. Pevenstein disclosed receiving \$3,000 from Revenew for the fiscal year ended June 30, 2019. There is no evidence of any disclosure of this agreement to the Board. Evidence reviewed by Latham shows that Mr. Pevenstein contacted members of management on numerous occasions on behalf of Revenew and sought multiple engagements for the company with UMMS. Senior executives

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<sup>11</sup> As discussed in more detail below, the engagement of the ACC chair as a consultant to UMMS was, in addition to violating Board policy, a critical failure of ACC oversight and governance.

responsible for engaging Revenew assumed Mr. Pevenstein had a financial interest in Revenew, but said they had no direct knowledge of that interest at the time Revenew was engaged. Upon learning of this role and interest, UMMS terminated the agreement with Revenew.

***Healthy Holly Book Purchases*** – Beginning in late 2010, and periodically going forward, UMMS agreed to purchase installments of self-published children’s books (different volumes of the *Healthy Holly* series) from Catherine Pugh, then a Director, state senator and, from 2017-2019, Mayor of Baltimore. With respect to the first through fourth installments, Ms. Pugh pitched the purchase of the books by UMMS and their subsequent donation to Baltimore City Public Schools to Mr. Chrencik, who approved the purchases. The ostensible purpose of the donation to Baltimore City Public Schools was to support UMMS’s “population health” initiative by disseminating health-oriented educational materials to children. However, there is no evidence that any UMMS executive ever read one of the installments to support a belief that the books would serve that population health goal.<sup>12</sup> After Mr. Chrencik’s approval, Mr. Wollman worked with an UMMS employee to create a check request and facilitate payment. There is no evidence that there was a process in place to evaluate the fair market value of the books or whether other alternative books would be more effective in serving the health education goal. Mr. Wollman, who cooperated with the Special Committee’s investigation, acknowledged that he never saw nor read a *Healthy Holly* book nor confirmed the school system’s receipt of them. With respect to the fifth installment, Ms. Pugh pitched the newest book directly to Mr. Wollman, who then obtained approval from Mr. Chrencik. As set forth more specifically, the *Healthy Holly* transactions proceeded as follows:

- In December 2010, UMMS agreed to purchase 20,000 copies of the first *Healthy Holly* installment, *Healthy Holly: Exercising is Fun*, from Ms. Pugh for \$100,000 on the condition that the purchase be on behalf of, and for distribution to, school children in the Baltimore City Public School system. Two checks, each in the amount of \$50,000, were issued to Amina Communications & Technology Inc. on February 3, 2011 and March 12, 2011, respectively. UMMS never received any confirmation that the books were delivered pursuant to the agreement.<sup>13</sup> Investigating Counsel could not separately confirm that the books were ever received as intended.

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<sup>12</sup> According to a plea agreement entered into between Ms. Pugh and the United States Attorney’s Office for the District of Maryland (the “plea agreement”), Ms. Pugh admitted that the *Healthy Holly* sales to UMMS were part of a “scheme to defraud” UMMS. However, the Special Committee cannot make a conclusion as to Mr. Chrencik’s motive or purpose in agreeing to the purchases. Mr. Chrencik did not respond to requests for an interview. As noted, there is no evidence of any diligence performed by UMMS in evaluating the usefulness of the *Healthy Holly* books to its “population health” campaign, assessing the fair market value of the books, or ensuring that the books were actually delivered by Ms. Pugh to the Baltimore City Public schools. Nonetheless, there is no evidence of Mr. Chrencik’s intent in approving the purchases or his knowledge of Ms. Pugh’s intent.

<sup>13</sup> According to the plea agreement, after initially delivering 20,000 copies of the first *Healthy Holly* installment, without authorization by UMMS or Baltimore City Public Schools, Ms. Pugh

- In August 2012, UMMS agreed to purchase 20,000 copies of a second *Healthy Holly* installment, *Healthy Holly: A Healthy Start for Herbie*, for \$100,000 again on behalf of, and for distribution to, Baltimore City Public School children. On November 6, 2012, UMMS issued a \$100,000 check payable to Healthy Holly LLC. UMMS never received any confirmation that the books were delivered pursuant to the agreement. However, Mr. Wollman assumed that the first installment of the books had been delivered and received by the school, based on the assumption that the school agreed to accept the delivery of the second installment.<sup>14</sup> Investigating Counsel could not separately confirm that the books were ever received as intended.
- In January 2015, UMMS agreed to purchase 20,000 copies of a third *Healthy Holly* installment, *Healthy Holly: Fruits Come in Colors Like the Rainbow*, for \$100,000, again on behalf of, and for distribution to, Baltimore City Public School children. On March 18, 2015, UMMS issued a \$100,000 check payable to Healthy Holly LLC. UMMS never received any confirmation that the books were delivered pursuant to the agreement.<sup>15</sup> Investigating Counsel could not separately confirm that the books were ever received as intended.
- In October 2016, UMMS agreed to purchase 20,000 copies of a fourth *Healthy Holly* installment, *Healthy Holly: Vegetables are not just Green*, for \$100,000 again on behalf of, and for distribution to, Baltimore City Public School children. On November 3, 2016, UMMS issued a \$100,000 check payable to Healthy Holly LLC. UMMS never received any confirmation that the books were delivered pursuant to the agreement.<sup>16</sup> Investigating Counsel could not separately confirm that the books were ever received as intended.
- In October 2018, UMMS agreed to purchase 20,000 copies of a fifth *Healthy Holly* installment, *Healthy Holly: Walking with My Family is Fun*, for \$100,000 again on behalf of, and for distribution to, Baltimore City Public School children. On November 14, 2018, UMMS issued a \$100,000 check payable to Healthy Holly LLC. UMMS never received any confirmation that the books were delivered pursuant to the agreement.<sup>17</sup> In early 2019, after negative news coverage reporting on the failure to

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and her associates arranged for thousands of copies of the book to be removed from Baltimore City Public Schools storage and transported to various locations in Baltimore, including Ms. Pugh's residence, legislative offices, mayoral office, and campaign office.

<sup>14</sup> According to the plea agreement, only 18,600 copies of the second *Healthy Holly* installment were delivered to Baltimore City Public Schools.

<sup>15</sup> According to the plea agreement, only 19,500 copies of the third *Healthy Holly* installment were delivered to Baltimore City Public Schools.

<sup>16</sup> According to the plea agreement, no copies of the fourth installment of *Healthy Holly* were delivered to Baltimore City Public Schools.

<sup>17</sup> According to the plea agreement, no copies of the fifth installment of *Healthy Holly* were delivered to Baltimore City Public Schools.

deliver the fifth *Healthy Holly* installment, Ms. Pugh returned \$100,000 to UMMS. She has not returned the remaining \$400,000 to date.

There is no evidence of UMMS entering into a contract with Ms. Pugh. All relevant payments were made to Ms. Pugh via the check request process. All payments were approved by an authorized manager (Mr. Wollman) pursuant to the Authority to Commit Matrix. In each of the relevant years, Ms. Pugh disclosed receipt of payments on her annual disclosure form. The relationship was included in management's presentations to the ACC in January 2013, March 2014, January 2016, and January 2018; and Board minutes from March 2013, April 2014, and March 2018 reference a report by the ACC Chair on "Disclosure of Financial Relationships." However, there is no evidence of any discussion of, review of, vote on, or approval of the arrangement by the ACC or the full Board. Although there is some evidence that the Board was told of the initial book purchase, there is no evidence of Board approval of that purchase or any subsequent purchases. Therefore, the Special Committee concluded that the book purchases from Ms. Pugh were payments for services that required but did not receive Board approval and, therefore, violated the volunteer services bylaw and governing law. In addition, the failure to confirm actual receipt of the purchased books exemplifies the risk inherent in such large and irregular purchasing processes, even if the purchases themselves technically complied with the procurement-to-payment policies (described below).

**Kelly & Associates Insurance** – Kelly & Associates Insurance (also known as "Kelly Benefit Strategies" or "KBS") originally contracted with Maryland General Hospital ("MGH") in 2008.<sup>18</sup> That contract was subsequently extended to additional UMMS hospitals in 2012 and was renewed several times. The original 2008 contract was won through a competitive RFP process; however, it does not appear that subsequent renewals were subject to RFP. All relevant payments reviewed by Investigating Counsel were made via the check request process. All payments reviewed by Investigating Counsel were approved by an authorized manager pursuant to the Authority to Commit Matrix. In each of the relevant years, Senator Kelly disclosed the relationship and the value ranges broken down by hospital entity. The relationship was disclosed to the ACC and to the Board as a whole numerous times. On January 26, 2012, management made a recommendation to the ACC to expand KBS services beyond MGH and BWMC.<sup>19</sup> Management explained that, although there was no competitive bid process, they were relying on MGH's 2008 competitive bid process (pursuant to which KBS was selected from a group of seven vendors) and the benefits administration outsourcing recommendations included in a 2009 Aon Consulting report to UMMS management. The ACC discussed and concluded that sufficient work was done by management to support their decision. Mr. Pevenstein motioned for

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<sup>18</sup> MGH became part of UMMS in 1999 and became University of Maryland Medical Center – Midtown in 2009. KBS contracted with North Arundel Hospital—which would later become University of Maryland Baltimore Washington Medical Center ("BWMC")—and Mt. Washington Pediatric Hospital prior to those facilities becoming part of UMMS in 2000.

<sup>19</sup> On January 26, 2012, UMMS management made a "Benefits Administration" presentation to the ACC discussing current benefits administration providers at UMMS hospitals, disclosing the financial relationship with Senator Kelly and recommending expanding the benefits administration services provided by Kelly Benefits Strategies.

approval to refrain from escalation to the UMMS Board. The motion was approved. Senator Kelly was not present at the meeting when this was discussed.

**Real Time/Fundamental Inc.** – UMMS entered into a Master Subscription Agreement to license the use of Real Time software in June 2018. Business Associate Agreements for protected health information software were executed in May 2018. These agreements were not made through an RFP bidding process. Real Time’s software is designed to utilize protected health information to manage the readmission risks of patients currently in nursing home facilities. Both the facility discharging the patient and the nursing home admitting the patient must utilize the software in order to achieve the desired results. Although Real Time provided its software to UMMS at no cost, and UMMS made no payments to Real Time during the period of time covered by the investigation, affiliated nursing homes were not given a similar discount. In each of the relevant years, Mr. Rifkin disclosed an ownership interest in Real Time on his annual disclosure form. Mr. Rifkin also disclosed serving as a consultant for Fundamental Inc. (“Fundamental”), which operates skilled nursing facilities. In 2018, Mr. Rifkin disclosed that the relationship between UMMS and Real Time may affect referrals to skilled nursing facilities operated by Fundamental in his annual disclosure form. These connections to Real Time and Fundamental were disclosed to the ACC in October 2018; however, there is no evidence of any discussion of, review of, vote on, or approval of the Real Time agreements by the Board.<sup>20</sup>

**Mid-Atlantic Healthcare Acquisitions** – UMMS entered into a ground lease option agreement with Mid-Atlantic Healthcare Acquisitions (“Mid-Atlantic”) in February 2019. There was no bidding on the ground lease option. In 2019, Mr. Rifkin disclosed an interest in Mid-Atlantic on his annual disclosure form. There is no evidence of any disclosure of this agreement to the Board. In addition, there is evidence that Mr. Rifkin lobbied UMMS management to support a State “certificate of need” finding that was necessary to permit Mid-Atlantic to develop a skilled nursing facility. There is no evidence of payments by UMMS to Mid-Atlantic. The option agreement terminated effective April 2, 2019 in a letter from Mr. Rifkin to Megan Arthur, the then-UMMS General Counsel.

**Home Paramount Pest Control** – In July 2011, UMMS entered into a three-year agreement with Home Paramount Pest Control (“Home Paramount”) with opportunities to extend. The agreement was amended and extended several times. The 2011 contract went through a competitive RFP process. Payments for all UMMS facilities (except Upper Chesapeake Medical Center) to Home Paramount were made via the purchase order to payment process. In each of the relevant years, Director Walter Tilley (whose family founded and owns Home Paramount) disclosed this interest on his annual disclosure form. Mr. Tilley’s relationship with Home Paramount was disclosed to the ACC and to the Board as a whole numerous times. On at least one occasion, the ACC discussed the Home Paramount contract and sought ACC

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<sup>20</sup> The provision of the Real Time software without charge to UMMS could be viewed as an inducement or reward for recommending or requiring skilled nursing facilities to purchase the software from Mr. Rifkin’s enterprise to be part of the UMMS “preferred network.” To the extent nursing facilities were required to purchase the software as a gateway to access UMMS referrals, the arrangement could violate existing law.

approval for expanding the contract.<sup>21</sup> Mr. Tilley was present at the meeting when this was discussed, but recused himself during the discussion of the pest control RFP.

**Soltesz, Inc.** – In 2013, UMMS entered into a contract for design services with Soltesz, Inc., a civil engineering company owned by James Soltesz, who subsequently became a UMMS Board member (in 2018). The 2013 contract went through a competitive RFP process. Payments to Soltesz, Inc. were made via both the blanket purchase order to payment process and the check request process. Certain check request payments were approved by an authorized manager pursuant to the Authority to Commit Matrix. In 2014, Soltesz, Inc. also entered into a contract with Dimensions Health Corporation, d/b/a Dimensions Healthcare System (“Dimensions”), for design professional services on the New Regional Medical Center Project at Boulevard at the Capital Center in Largo, Maryland. Dimensions subsequently affiliated with UMMS in or around 2017. Upon joining the Board in May 2018, Mr. Soltesz disclosed the interest on his annual disclosure form. The Special Committee notes that the legitimate concern about Board members using their position to further their own interests is mitigated when, as with Mr. Soltesz, the relevant business relationship with UMMS long predated his Board tenure.

**Best Care Ambulance** – In 2001, UMMS, entered into a contract with Best Care Ambulance. That agreement was amended and extended several times. Although the agreement was not subject to the competitive RFP process, it is the Special Committee’s understanding that no alternative services were available for the covered areas—which is an established exception to the competitive bidding requirements under relevant UMMS policies. The payments that Investigating Counsel reviewed were made through the blanket purchase order to payment process. In each of the relevant years, Director Wayne Gardner disclosed his relationship to Best Care Ambulance on his annual disclosure form. The agreement was disclosed to the ACC; however, there is no evidence of any discussion of, review of, vote on, or approval of the arrangement by the full Board. The Special Committee notes that the relationship between Mr. Gardner and Best Care Ambulance was widely known among the members of the Board and management who were interviewed as part of this process. Like Mr. Soltesz, Best Care Ambulance’s business relationship with UMMS predated Mr. Gardner’s Board tenure.

**M&T Bank** – M&T Bank is a primary banking partner for UMMS. The UMMS relationship generates net interest income and fees for M&T Bank in the range of \$3-5 million annually. M&T Bank won a \$250,000,000 Syndicated Line of Credit restructuring in 2016 via a competitive RFP process. Other bidding practices are unknown. Payments to M&T Bank that Investigating Counsel reviewed were made via payment request. All payments to M&T Bank that Investigating Counsel reviewed were approved by an authorized manager pursuant to the Authority to Commit Matrix. In each of the relevant years, Mr. Chiasera disclosed his relationship with M&T Bank on his annual disclosure form. Mr. Chiasera’s relationship with M&T Bank was disclosed to the ACC, the Finance Committee, and to the Board as a whole. On at least one occasion, the Finance Committee reviewed and voted to refinance the syndicated line

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<sup>21</sup> On June 7, 2011, UMMS management made a “Supply Chain Management” presentation to the Audit Committee identifying pest management as an opportunity for standardization and cost savings, discussing an RFP issued to three current suppliers, including Home Paramount, and explaining the decision to award the contract to Home Paramount.

of credit with M&T Bank as the lead firm; however, there is no additional evidence of any discussion of, review of, vote on, or approval by the Board for other services and agreements between M&T Bank and UMMS. The Special Committee notes that the relationship between Mr. Chiasera and M&T Bank was widely known among the members of the Board and management who were interviewed as part of this process.

**Jones Birdsong LLP** – In September 2018, UMMS-affiliate BWMC purchased a medical malpractice insurance policy for a newly-acquired cardiology group, Arundel Cardiology Associates. The broker for the policy was Jones Birdsong LLP (“Jones Birdsong”)—for whom UMMS Board Member Korkut Onal serves as managing partner. This was a one-time policy purchase based on a time-sensitive matter. The policy was necessary to provide standard coverage for any potential claims made after the cardiologists joined BWMC for liabilities that arose before the acquisition. BWMC obtained one other quote, from the group’s insurance carrier prior to joining UMMS, that was substantially higher. The transaction arose when BWMC contacted Mr. Onal to obtain a second quote on an urgent basis.

Jones Birdsong received a one-time payment in the amount of \$213,460, which included the insurance premium, taxes, and fees. Jones Birdsong’s commission was 10% of this payment minus taxes and fees—approximately \$20,700. This payment was made via the check request process and was approved by an authorized manager pursuant to the Authority to Commit Matrix. Mr. Onal complied with all disclosure requirements with respect to the relationship. There is no evidence of any discussion of, review of, vote on, or approval of the Jones Birdsong relationship by the UMMS Board; however, there is documentation suggesting that the BWMC Board was aware of the transaction.

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For the Directors discussed above, all had reported their conflicts of interest as required by the policies in place at the time. For the remaining 30 Directors in the scope of the Special Committee’s investigation, Investigating Counsel did not identify any conflicts of interest, business relationships, or inappropriate financial transactions with UMMS.

#### **IV. FINDINGS AND OBSERVATIONS**

This Section provides a summary of the Special Committee’s key findings and observations concerning the effectiveness of Board governance and oversight of UMMS. These findings are based on documents and email review, witness interviews, and forensic review of available financial accounting data. This section does not attempt to provide an exhaustive account of all facts established through the investigation, nor does it contain a summary of each interview conducted or the substance of all documents and information reviewed.

##### **A. Board Policies Concerning Potential Conflicts Of Interests Failed To Foster Rigorous And Effective Board Oversight**

In reviewing the COI transactions, the Special Committee found that transactions benefiting Directors were generally reported and disclosed by the Directors, consistent with existing policies. However, the documentary and witness evidence was inconclusive and conflicting as to whether the transactions were appropriately reviewed and approved by the

ACC. In addition, the existing policies, as written, were confusing, poorly drafted, and poorly understood by Board members and management, which undermined the control environment by effectively eliminating Board review and approval. As a result, although the COI transactions were disclosed as required by the written policies, there is no evidence that the disclosures led to rigorous, meaningful review by the Board or the ACC.

1. *2011 Policy Change Permitted Directors To Avoid Full Board Review And Approval Of Business Transactions That Benefited Them Personally*

The Bylaws provide that Board members serve in their capacity on the Board without compensation. The Bylaws permit a Board member to receive compensation for service in any other capacity if the compensation is approved by a resolution of the Board. Therefore, although the Bylaws do not prohibit Board members from having other relationships with, or providing services to, UMMS, the Bylaws require a Board resolution for Board members to receive any compensation from UMMS.<sup>22</sup>

Since at least 2002, internal UMMS policies also required Board members to disclose any actual or potential conflicts of interest. The policies requiring those disclosures changed over time. Pursuant to a Board resolution adopted in 2002 (the “2002 Board resolution”), a Board member was required to disclose to fellow Board members any actual or possible conflicts of interest in a matter before the Board, “at the earliest practicable time.”<sup>23</sup> Following disclosure, the Board member was prohibited from voting on the matter and was required to recuse himself or herself during the vote. Additionally, when management or a Board member became aware of a potential situation in which a Board member could have a conflict of interest, management or the Board member was required to present the situation to the Board’s Finance Committee for guidance. Finally, management was required to present to the full Board any transaction in which management was aware that a Board member had a conflict of interest.

Those disclosure and approval procedures were significantly altered in 2011, eliminating on its face the requirement of disclosure to and approval by the Board and redirecting the review and approval of conflict transactions to the ACC (hereafter referred to as “the 2011 Board policy”).<sup>24</sup> The 2011 Board policy relied on an annual conflict of interest disclosure. Specifically, in August 2011, after the end of UMMS’s fiscal year, each Board member was required to complete a “Disclosure of Financial Relationships Questionnaire” (or “annual disclosure form”) disclosing any actual or proposed financial relationships between the Board member and UMMS from the prior fiscal year. Board members were also required to disclose to UMMS’s general counsel any new relationships that arose between annual reporting requirements. Under the 2011 Board policy, the UMMS general counsel was responsible for

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<sup>22</sup> The Bylaws are unclear as to whether the restriction on compensation to Board members applies only to *direct* services personally provided by the director or also to *indirect* services provided by a third-party vendor in which the director has a financial interest. If the latter, then a Board resolution likely would be required to approve all COI transactions.

<sup>23</sup> Exhibit 3, the 2002 Board resolution at page 3.

<sup>24</sup> See Exhibit 4, 2011 Board policy, UMMSCC1104 Disclosure of Financial Relationships.

collecting the annual disclosure forms and summarizing the relevant information to the ACC for its review. Unlike under the 2002 Board resolution, this information was *not* required to be presented to the full Board. Rather, the ACC was responsible for determining whether any disclosed financial relationship was “significant,” and if so, for reporting any findings of significant financial relationships to the full Board for a vote on further action.<sup>25</sup>

This policy change was significant because it allowed Directors to avoid full Board review and approval of conflicted business transactions. Placing the responsibility to review and analyze disclosed financial relationships with the ACC was particularly problematic because there were multiple conflicted transactions between UMMS and the then-ACC Chair, Mr. Pevenstein.

In addition to Board-specific policies, UMMS also had corporate compliance policies on conflicts of interest and required disclosures.<sup>26</sup> These historical corporate policies vary in terms of application, but for the first time in 2017, the corporate policy also applied explicitly to Board members (in addition to all other employees, as prior versions did). The 2017 corporate policy required annual disclosure of any financial interest that may result in perceived potential conflicts of interest and created a duty to disclose any additional financial relationship that arose in between annual reporting requirements. The 2017 corporate policy does not include detailed procedures to be followed once a conflict is disclosed by a Director, but defers to the full Board or a committee to decide how to manage the conflict (but at minimum, requires the conflicted member to not participate in that discussion or vote).

## 2. *Existing Policies Were Poorly Understood*

Several Board members and senior executives, when interviewed, either acknowledged unfamiliarity with the Board’s (or UMMS’s) COI policies or incorrectly explained what the policies required. Some members of management responsible for approving purchasing transactions acknowledged they had not read the policies. No Board member reported having read any COI policy prior to 2019; and when asked, Board members and senior executives often described the policies as requiring only *post hoc* disclosure of completed transactions that provided a personal benefit (on an annual basis). No one interviewed reported that the Bylaws, or, in some instances, the internal policy required affirmative Board action or approval prior to compensation for at least some conflicted transactions. Notably, the Bylaws are vague as to whether compensation received indirectly (for example, compensation received from a business in which the Board member has a financial interest) is prohibited without a Board resolution.

## 3. *Board Members Failed To Adequately Engage In Review Of Conflicted Transactions*

When interviewed, Directors and senior executives differed in their recall of Board-level review of transactions that personally benefited Board members (though none could recall the

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<sup>25</sup> *Id.* at page 2.

<sup>26</sup> See Exhibit 5, Corporate Compliance Policy: Conflicts of Interest, UMMSCC1208.

Board *voting to approve* such transactions). The difference between the Directors' recall of the review process and senior management's amounts to a minor difference in emphasis, likely resulting from the different perspectives of the participants. Directors were aware that they were required to fill out conflict of interest disclosure forms each year and that the General Counsel<sup>27</sup> would collect these for UMMS. Some recalled that a summary of the disclosures was presented to the full Board each year or knew that the conflicts were reported on Schedule L of the Company's tax return (Form 990), which was provided to Board members. Others, including long-time Directors, were unaware of these Board-level presentations; and many said that if and when they occurred, the information was presented quickly, flashed on a screen, and not discussed.

Some members of management described this Board-level presentation as more rigorous and pointedly attributed the Directors' lack of recall of the presentations to a lack of diligence and preparation on the part of those Directors. (Some Board members candidly acknowledged they had not been as diligent in review as they should have been.) In fact, the COI transactions reported in the media were reported on the Forms 990 with just two exceptions.<sup>28</sup> Each Director had access to the forms, and there is some evidence that presentations concerning the COI transactions were made at ACC and Board meetings. For example, while several members of management and the Board expressed shock that UMMS had entered into a consulting agreement with Mr. Dillon, the agreements were disclosed each year by Mr. Dillon and reported on the Company's Form 990s. One former Director described the Pevenstein consulting arrangement as "hiding in plain sight." Of the transactions reported in the media, only the book purchases from Ms. Pugh were not regularly reported on UMMS's Form 990, although, in one instance, a \$50,000 payment for the *Healthy Holly* books was reported on the form.<sup>29</sup>

While the evidence of Board review is lacking at best, there is no evidence of Board action or approval prior to Board members receiving compensation for COI transactions. As discussed, the Bylaws are unclear as to whether Board members are prohibited from receiving indirect compensation (profits from companies doing business with UMMS), as well as direct compensation. Board minutes do not reflect any review, vote, or approval of specific COI transactions. ACC and Finance Committee minutes reflect, collectively, three instances of committee-level review and approval of a COI transaction.

Access to the Forms 990 and brief presentations at busy and generally lengthy Board meetings may technically qualify as disclosure to the Board. However, what appears to be a lack of serious discussion and rigorous review and approval of these transactions rendered Board-level review ineffective and essentially *pro forma*. Whether by design or omission, the control process for Board review and approval of self-interested transactions was ineffective.

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<sup>27</sup> The former General Counsel, Megan Arthur, did not respond to a request for an interview.

<sup>28</sup> In one case, it is arguable whether reporting on the Form 990 was required.

<sup>29</sup> Ironically, this one instance of reporting the Pugh transaction on the Form 990 was deemed a "mistake," because only transactions above \$100,000 were considered reportable.

4. *The Conflict Of Interest Policies Permitted Board Members To Lobby Purchasing Executives On Behalf Of Personal Business Interests*

As understood by Directors and management, the Company’s conflict of interest policies permitted Directors to contact, and in some cases lobby, UMMS executives with influence over purchasing on behalf of their personal business interests—without disclosing the fact or nature of their financial interests. As noted above, the 2011 Board policy, as written and as understood, required only *post hoc* disclosure of business interests. While the Bylaws permitted a director to receive compensation for “other services” provided to UMMS—pursuant to resolution of the Board—the specific provision did not address when disclosure of a financial interest had to occur.<sup>30</sup>

The Special Committee found evidence of Board members contacting UMMS purchasing executives and other senior officers (for example, in technology) on behalf of companies seeking to do business with UMMS. In many of those instances, the Director had a personal financial interest, and in some cases, failed to disclose the nature of that interest. So routine were many of these contacts, that UMMS executives involved in purchasing decisions said that, depending on the Director making the approach, they assumed that the Director contacting them had a financial interest in the transaction. For example, in 2018, UMMS engaged Revenew for a contract monitoring costs in the construction of a hospital in Prince Georges County. Revenew was introduced to UMMS by Mr. Pevenstein, who repeatedly contacted UMMS senior executives about using Revenew’s services.<sup>31</sup> UMMS executives assumed, but said they did not know at the time of contracting with Revenew, that Mr. Pevenstein would receive a commission for generating business for Revenew. Mr. Pevenstein disclosed his relationship with Revenew in August 2019. The Company subsequently terminated the contract. Evidence showed that Mr. Pevenstein also lobbied UMMS executives with purchasing authority to increase the use of other companies with whom he had financial relationships, including Optimé, but in most cases, UMMS executives resisted these efforts. Regardless, Board members’ requests for meetings with businesses connected to them, or their family or friends, led to frequent distraction and misuse (or overuse) of management’s time—as executives acknowledged during interviews.

**B. Conflicts Of Interest And Structural Defects Rendered Audit And Compliance Committee Oversight Ineffective**

The Special Committee found numerous practices that, while not technically a violation of any bylaw, rule, or policy, created conditions that rendered the ACC oversight function ineffective. Since at least 2004, Mr. Pevenstein served as ACC Chair. He continued to serve in that role until his resignation from the Board in 2019. During periods of that time, Mr. Pevenstein served concurrently as Chair of the Finance Committee and the Investment Committee. Several witnesses noted that attendance at ACC meetings was frequently sparse, sometimes “embarrassingly” so. The ACC struggled to attract members and maintain routine attendance, with the exception of Mr. Pevenstein.

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<sup>30</sup> Exhibit 2, Section 2.11.

<sup>31</sup> Mr. Pevenstein declined to be interviewed by the Special Committee’s counsel.

In the best circumstances, this record of dominance by a single individual, lack of rotation of leadership and members, and lack of regular engagement by members would suggest a weak control environment and a heightened risk of control override by members or management. In the UMMS Board environment, this risk was compounded by the acknowledged conflicts of interests of the Chair, Mr. Pevenstein, and several ACC members. At certain times, a full majority of the formal ACC membership reported conflicts of interest. Mr. Pevenstein, as noted above, reported several of his own, including a consulting agreement in 2018 that essentially put him on the payroll of the senior management that the ACC was supposed to oversee.

The dominance of the ACC by one individual and the many conflicts of interests of the Chair and ACC members rendered the oversight function control fatally flawed. Yet the situation continued for several years. The real world impact of this weakness was felt throughout the executive levels of UMMS. Because either Mr. Pevenstein or those perceived to be closely aligned with him were often in situations that undermined effective oversight, executives saw no point in raising issues with them, as the reporting would have been circular. For example, one member of senior management said she separately raised concerns about Mr. Pevenstein's consulting agreement with another senior executive only to have the issue dismissed as a *fait accompli*.<sup>32</sup> In another instance, concerns about management pressure on the internal audit department went unaddressed because of the tight relationship between Mr. Pevenstein and senior management.

### **C. Failure To Observe Term Limits Allowed A Limited Number Of Board Members To Exercise Disproportionate Influence**

Under Maryland law, UMMS Board members may not serve more than two consecutive full terms.<sup>33</sup> The term of a member is five years and begins on the first Monday in June of the year of the appointment. At the end of a term, a Board member continues to serve until a successor is appointed and qualifies. A Board member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies. Consistent with this law, the Bylaws state that, at the end of a term, a Board member continues to serve until a successor is appointed and qualifies.

The Special Committee observed that several Board members served more than two consecutive five-year terms, while others rotated off after one or two terms. Through interviews and review of documents, the Special Committee found that efforts to work around the term limit policy were well known and actively participated in by numerous former members of senior management and the then-key members of the Board. Strategies to avoid the legislatively-mandated term limits included switching the method by which he/she came to serve on the Board, brief breaks in service followed by reappointment to a new term, and continuing to serve so long as he/she was not replaced. Board members' political connections, special skills, or knowledge were given as reasons. The longest serving Board members were typically the most

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<sup>32</sup> According to interviews, the issue of Mr. Pevenstein's consulting agreement was raised with Mr. Franey. Mr. Franey confirmed the senior executive's account.

<sup>33</sup> MD Educ. Code § 13-304(d).

powerful (or perceived to be) and had the most significant conflicts of interest. Although this was not a blatant violation of Board policy (given the open-ended nature of the Bylaws that allows service to continue until a successor is appointed), it constituted an override of the statutory control and showed a lack of concern with quality corporate governance.

Term limits are intended to provide periodic rotation of Board membership and leadership and prevent entrenchment that can pose a risk to effective oversight of management. Where, as here, those limits were not followed, that risk was borne out. The result was an inner circle of long-time Board members that many perceived to hold all of the decision-making power. Those long-serving Board members were able to exercise disproportionate influence over Board policies and ultimately failed to exercise appropriate oversight over those in management who worked to keep them on the Board. As reflected in the chart below, many of the longest-serving Board members were also ones with the most significant conflicts of interest.

Board Member	Approximate Length of Board Service
Senator Frank Kelly	33 years
State Senator/Mayor Catherine Pugh	17 years
Robert Pevenstein	16 years
John Dillon	13 years

Senior members of management frequently strategized internally and also with Board Chair Burch, Mr. Kelly, Mr. Pevenstein, and Mr. Dillon, on strategies to keep key Board members beyond their terms. The Special Committee found no evidence of any discussion or acknowledgement that *rotation* of Board members was a priority. Given the negative effects of Board member entrenchment, the Special Committee recommends reforms to the membership rotation rules governing membership on the full Board as well as committees and chairperson roles.

**D. Purchasing And Disbursement Policies Permitted Management To Engage In Significant Transactions Without Board Oversight**

At UMMS, payments are generally processed through (1) purchase orders and invoices, (2) check requests, or (3) recurring payments. Purchases of supplies and/or services should, generally, be obtained through the purchase order process and must be awarded through a competitive bid process, with certain defined exceptions (*e.g.*, sole source purchases).<sup>34</sup>

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<sup>34</sup> Other defined exceptions include: items available through a group purchasing contract; no known alternate source; and products and/or services that would benefit UMMS if acquired through a negotiated purchase. *See* Exhibit 6, Use of Bids and Quotations, UMMSSC03; *see also* Exhibit 7, Central Procurement, UMMSSC01. The specific mechanics and procedures in place at Upper Chesapeake and Capital Region vary from the general UMMS procedures, since these two affiliates have not yet or have only recently been integrated into UMMS’s shared services process.

Furthermore, all requests for goods and services from a vendor must have a purchase order before delivery of goods and services are provided.<sup>35</sup> UMMS's Disbursement/Check Request Policy ("Check Request Policy") states that check requests should be used for limited transactions and provides a non-exclusive list of examples (*e.g.*, conference deposits or professional licenses).<sup>36</sup> The Check Request Policy states that purchase of supplies and goods should be made using a purchase order requisition and follow the normal procurement process (described above). The policy also states that it is the responsibility of the person granting authorization to assure that services have been provided and at the agreed-upon rate. A request for disbursement is to be made using a completed check request form and must include related documentation and or receipts. The Authority to Commit Matrix operates as the main "control" on the check request process. If the appropriate person with the right level of authority to commit approves a check request, that check will generally be processed without further inquiry. As written, however, this control permits large disbursements to be approved by a single manager or executive without any documentation of a business purpose or further evidence of the transaction's need or value. The Chief Executive Officer ("CEO") and CFO have the authority to approve a check request of any amount, with no upper limit.

Many of the COI transactions that the Special Committee and its advisors reviewed involved the purchase of goods or services, but were processed through check requests rather than purchase orders, which was inconsistent with UMMS policies (however, those policies did not expressly prohibit the use of check requests, in part because the policies provided only a non-exhaustive list of examples in which a check request would be appropriate). These check requests were accompanied by supporting documentation (for example, an invoice) and signed by a member of senior management with the authority under the Authority to Commit Matrix to approve the amount of the disbursement.<sup>37</sup> Furthermore, several of the COI transactions were initiated via a recurring check request; and once that recurring request was established in the system, there was no additional review or assessment of those payments moving forward. As such, senior management engaged in significant transactions without Board oversight and, often times, without other members of senior management's knowledge. For example, the consulting arrangements with Mr. Pevenstein and Mr. Dillon and the purchases of *Healthy Holly* books were all approved by members of senior management with the appropriate authority to commit those resources and accompanied by supporting documentation. As such, and without any

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<sup>35</sup> See Exhibit 8, Supply Chain Shared Services Procedure Manual, UMMSPR08.

<sup>36</sup> See Exhibit 9, Disbursement/Check Request Policy, UMMC 4931881. We understand this policy is applicable UMMS-wide.

<sup>37</sup> UMMS has a policy requiring approval of disbursements and payments by either a manager, director, Vice President, Senior Vice President, or CEO/CFO, based on four different budget levels and specific check request, purchase order, or invoice amounts. The Authority to Commit Matrix has been in place since 2006 and generally applies across all UMMS entities. Upper Chesapeake has separate Financial Delegation of Authority Guidelines that have been in place since 2012 (*see* Exhibit 10, Upper Chesapeake Delegation of Authority Post-2012), and Capital Region Medical Center has a separate Financial Authority to Commit Matrix (*see* Exhibit 11, Capital Region Authority to Commit Resources Matrix).

additional oversight or questions asked, those payments were processed by Accounts Payable and checks went out on a recurring basis.

Finally, UMMS makes charitable donations to other organizations and non-profits who perform community and healthcare-related services consistent with UMMS's own mission. There is nothing improper about making such contributions, and the Special Committee did not view a contribution made to a charity in which a Director might have a personal interest (*e.g.*, sit on the Board) as a conflict of interest *per se*. The Special Committee also did not observe any instances of UMMS being defrauded through a charitable contribution, other than the *Healthy Holly* book deal. However, it is clear that UMMS lacked a policy governing charitable contributions, and there was a lack of clarity regarding required processes and approvals for such contributions. Historically, the CEO or the Chief Administrative Officer made all decisions on charitable giving at the corporate level, and their decision-making process was not formally documented (although, a corporate budget for charitable giving was set at the beginning of the fiscal year). Charitable donations reviewed by Investigating Counsel were generally made by check request. The check requests were made and approved by members of management with the appropriate authority to do so under the Authority to Commit Matrix. The Board did not have a role in those decisions, and UMMS did not have a committee or formal process for requesting and approving charitable contributions. The absence of such controls around the significant expenditure of funds for charitable purposes creates a risk of abuse, which was borne out in the *Healthy Holly* payments.

#### **E. Transactions With Board Members Eroded The Effectiveness Of Board Oversight**

UMMS's culture reflected a concentration of power at the top, where members of management sought excessively to keep the peace. As described above, the structure of the UMMS's procurement and payment policies allowed the CEO to exercise almost unchecked power within the management structure for purposes of entering into contracts with Board members and disbursing funds to them.

Numerous emails reviewed by Latham also reflected instances of certain Board members contacting members of senior management to refer friends and family members for employment positions at UMMS or an affiliate hospital, or to request that special care and attention be given to a friend or family member who was a patient in an UMMS hospital (in addition to the business referrals described above). Members of management acknowledged the volume of these requests and a general sense that it was part of their job to review such resumes or attend to such requests, but also stated that they did not feel pressure to hire someone who was not qualified for the job just because they had a connection to a Board member. Nonetheless (and while not against any specific Company policy), these frequent requests for special attention created a sense of management responsibility for catering to certain Directors.

Additionally, certain Board members were often invited by senior management to attend social events and outings, including sporting events in and outside of Maryland. From the perspective of some members of senior management, these opportunities came to UMMS because of the medical services that it provided to the athletes and their community and were in turn provided to Board members in appreciation for the Directors' voluntary service to

UMMS. Some Board members interviewed expressed their perception that favoritism was involved in selecting who to invite to these events and that these social interactions between a subset of management and select Directors reinforced a culture of concentration of power amongst a few. While it is certainly the case that social activities can serve an important role in helping form a cohesive organizational culture, when those opportunities are unreasonable and meted out by management to select members of its Board, the risk of management “capture” and of a breakdown in effective oversight roles grows.

## V. SPECIAL COMMITTEE RECOMMENDATIONS

The primary goal of the Board of Directors in unanimously creating this Special Committee was to undertake a broader and deeper investigation of the conduct that was the subject of the Nygren Report than had been undertaken as of the time that Report was issued. In addition, and significantly, the Special Committee was directed to “advise the Board of Directors regarding governance practices, process improvements and remediation, recovery, and corrective actions based on the above investigation and analysis[.]”<sup>38</sup>

The Special Committee has completed its investigative work and delivered its findings. This document sets forth the observations and recommendations of the Special Committee related to governance, process improvements, and remedial or corrective actions. These recommendations address deficiencies in the existence or enforcement of governance policies and procedures observed by the Special Committee during its investigation that likely contributed to the findings. In making these observations and recommendations, the Special Committee is mindful of the substantial and significant work undertaken by the Nomination and Governance Committee over the last many months in the promulgation and/or revision of policies and procedures that are designed to strengthen governance processes and infrastructure and institute best practices. The Special Committee’s work, though separate, complements and is intended to assist and inform that ongoing effort.

In submitting this document, the Special Committee wishes to emphasize that the conduct that is at the center of our investigative efforts was conduct undertaken by a small number of corporate officers and former Directors who are no longer with UMMS and whose actions were wrongful by any standard—regardless of the sufficiency of the governance policies and processes in place. The existence and enforcement of appropriate and transparent rules, policies and standards that foster an environment where everyone knows what is expected and what will not be tolerated is necessary. Such rules are not, however, a substitute for integrity in leadership. A culture of compliance starts with the commitment of leadership to best governance and corporate practices as a means of safeguarding and assuring the mission of UMMS. To that end, during the course of the Special Committee’s investigation, the Board, primarily through the Nominations and Governance Committee and current senior management, has been laser focused on establishing clear and comprehensive governance and corporate practices, some of which have been implemented exclusive of the Special Committee’s recommendations below.

It should also be noted that the failings identified in the past *governance* of UMMS do not in any way suggest failings in the *care* provided by UMMS to many thousands of

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<sup>38</sup> Resolution (September 9, 2019).

Marylanders and others each year. Simply put, the Special Committee recognizes that the failings in the UMMS Boardroom were *not* failings in the emergency rooms or examining rooms or elsewhere throughout the hospitals, clinics, and outpatient facilities by the more than 28,000 UMMS employees and physicians.

#### **A. Board Structure**

1. *Size of the Board* – A 30-member Board is large by most standards, and many Board members expressed concern that the Board size was unwieldy and made effective meetings difficult. Some Board members described meetings as essentially information sessions where active participation while not discouraged, was impractical. A change to the maximum board membership would require a change in state law. The Special Committee recommends that UMMS approach the General Assembly and the Governor to discuss reducing the size of the Board over an appropriate period of time to promote the effectiveness and accountability of its members.
2. *Term Limits* – Existing state law and the Bylaws limit Board members to two five-year terms, although exceptions to that limit were broadly and easily made. The Special Committee recommends that the General Assembly and Governor consider limiting the tenure of a Board member to no more than two five-year terms, as currently allowed by statute, or no more than 10 years total for whatever reason, such that any extension beyond a 10-year service period is permitted only in extraordinary circumstances.
3. *Board and Committee Chair Rotation* – There is currently no limit on the length of time a Board member can serve as Chair or a Committee Chair. The Special Committee recommends that the Nominating and Governance Committee consider an amendment to the Bylaws to limit the length of time a director can serve as either a committee chair or Board chair and to prohibit a director from concurrently serving as chair of more than one committee.
4. *Implementation Oversight* – The Special Committee notes that substantial work has been undertaken by the Board and management to strengthen, expand, and remediate governance processes and procedures. The Special Committee believes that it is important to establish a schedule for the implementation of these efforts and changes, to assure that such efforts are being undertaken on schedule, to evaluate and oversee the implementation, and to report progress to the Board.
5. *Annual Board Review* – The Special Committee recommends that the Board be required to review annually the steps taken by management to conduct compliance training, establish compliance priorities, and review the effectiveness of training throughout UMMS.

6. *Compensation* – The Special Committee recommends the Executive/Compensation Committee of the Board adopt, as a vital part of its review of executive compensation, a formal practice considering senior management’s record of fostering a strong compliance culture throughout UMMS. Deficiencies in any area under the executive’s responsibility, however identified, should be taken into account in determining base compensation increases as well as at risk compensation. The Executive/Compensation Committee should also establish a “claw-back” policy to permit UMMS to recover previously paid bonus compensation for past periods where a deficiency is subsequently identified.

## **B. Conflict Of Interests**

Some of the Special Committee’s recommendations regarding COI transactions are reflected in the revised COI policy adopted in July 2019.<sup>39</sup> Others have been more recently prepared by the Nominations and Governance Committee for consideration by the Board. The Special Committee repeats them here for completeness and to endorse maintaining those changes.

1. *Annual Board Approval for COI Transactions* – The Special Committee recommends that the Nominations and Governance Committee establish standards and procedures for full, annual Board review and approval of related-party transactions or relationships. Related-party transactions should be defined broadly to include direct and indirect relationships that provide a personal, financial, or business benefit, including those for family members.
2. *Approval Through Supply Chain* – The Special Committee recommends that all related-party transactions involving Board members be approved through the supply chain procurement process, including a bid process when possible (unless an identified exception applies). The ability of senior executives outside of the supply chain to approve COI transactions should be eliminated.
3. *Check Requests* – The Special Committee recommends that payments made by the check request method for COI transactions, and that are approved outside of the normal supply chain process, also be approved by the Board Chair, or designee, and the Chief Compliance Officer of UMMS prior to payment. The Special Committee further recommends that UMMS revise the Check Request Policy to more explicitly prescribe the instances when a purchase order is required and when a check request can be used. The revised Check Request Policy should apply to all UMMS entities.

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<sup>39</sup> See Exhibit 12, University of Maryland Medical System Corporation Conflicts of Interest, BOARD-01.

4. *Advance Disclosure* – The Special Committee recommends that Board members be required to disclose any personal, financial, or business benefit that they could receive from a business transaction with UMMS at the time of the contact by the prospective business partner, vendor, or service provider, at the earliest time either the Board member or the prospective transaction counterpart become aware of the interest.
5. *Management Reporting Obligation* – The Special Committee recommends that UMMS employees, and all affiliates, be required to notify the Chief Compliance Officer (“CCO”) of any potential business transaction(s) (whether a new business relationship or an expansion or modification of an existing relationship) in which (a) a Board member has a personal, financial, or business interest, or (b) a Board member made direct contact with an UMMS employee about a potential business transaction involving a third party. The CCO shall be required to review all such potential transactions to determine whether a potential conflict of interest exists and all rules and procedures have been followed.
6. *Board Member Advocacy* – The Special Committee recommends that Board members be required to direct all proposals, questions, or recommendations regarding business relationships between UMMS and third parties (regardless of whether there is a potential Board conflict) to the ACC Chair, or his/her designee, who will be responsible for directing the business relationship to the appropriate department or manager for review and recommendations. Once the Board member’s initial referral is made, that Board member should recuse themselves from any further consideration of the proposal, unless further assistance is requested of that Board member by the ACC Chair or the designee.
7. *Periodic Internal Audit* – The Special Committee recommends that the Internal Audit department be required to design and execute a periodic audit of Board member COI disclosures based on a work plan and timetable approved by the ACC. At a minimum, the work plan should test the completeness of Board member disclosures, verify Board member income related to UMMS and its affiliates, and review compliance with the COI reporting policies.

**C. Compliance Training, Education, And Review**

1. *Annual Training and Policies and Procedures* – The Special Committee recommends that the Board require annual, in-person training to senior management, employees, and Board members regarding conflicts of interest and other policies. For the Board, the completion of the training should be recorded in the Board minutes.
2. *Management Leadership Training* – The Special Committee recommends that the Board require senior management to develop and implement a

program of leadership training for executive management focused on topics and areas most germane to the leaders being trained, but with consideration given to creating an ethical business culture and strong corporate governance principles. Senior management should be asked to report back to the Board annually on the status of the training program.

3. *Promote an Effective Whistleblower Process* – The Special Committee recommends that senior management develop and communicate multiple avenues (including to management and/or the ACC) for lodging complaints of potential violations of law or corporate policy throughout UMMS, and ensure that reported incidents, including follow-up, are communicated at least quarterly to the ACC.

#### **D. Finance Practices**

The Special Committee is aware that the Nominations and Governance Committee has developed policies and procedures relating to financial practices for consideration by the Board that address all of the significant recommendations included in this section. The Special Committee records its recommendations here to affirm and support the need for such policies.

1. *Review and Revise Authority to Commit Matrix* – The Special Committee recommends that the Board, or its designee, review the Authority to Commit Matrix with a focus on establishing checks on individual executives' ability to authorize material transactions, requiring documentation of a business purpose for transactions, and requiring review and approval by a second member of senior management for transactions above a minimum threshold to be specified by the Finance Committee. Furthermore, the Special Committee recommends that there be one comprehensive Authority to Commit Matrix for all UMMS entities. This comprehensive Authority to Commit Matrix should include all relevant employee titles.
2. *Finance Committee and Board Review of High-Dollar Transactions* – To ensure that all non-budgeted, high-dollar transactions receive appropriate Board-level review, the Special Committee recommends that the Board establish a policy requiring that transactions with total value in excess of \$10 million be reviewed and approved by the Finance Committee. The review and approval requirement should apply to all types of transactions outside of the ordinary course, including, but not limited to, purchases, sales, leases, financings, rebates, or debt. The disbursement apparatus of UMMS and the affiliates shall also be instructed to reject payment for transactions above \$5 million absent written approval of the Finance Committee.
3. *Vendor Selection and Bidding* – The Special Committee recommends that UMMS develop a formal policy for sourcing, bidding, and purchasing that requires all transactions over a certain dollar threshold to be competitively

bid and approved by the Board, with specific exceptions included in said policy. Consideration should be given to including a lower threshold for transactions with unrelated third parties to be approved by management and establishing a minimum number of bids based on a set purchase amount. In addition, bidding support documents and vendor estimates should be retained for all transactions.

4. *Establish Centralized Accounts Payable* – The Special Committee recommends that UMMS complete the migration of all affiliates under the Shared Services model, creating one centralized Accounts Payable to strengthen internal controls. UMMS should consider incorporating certain detective controls as part of the vendor and customer master data setup process—for example, using an identifier within the enterprise resource planning system when establishing a new vendor or customer to identify possible related party relationships. A report of potential related party relationships could then be generated on a periodic basis and reviewed by the appropriate personnel in Finance and/or Legal.

#### **E. Other Recommendations**

The Special Committee is aware that the Nominations and Governance Committee has developed policies and procedures relating to most of the recommendations included in this section. The Special Committee records its recommendations here to affirm and support the need for such policies.

1. *Establish Procedure for Review and Approval of Charitable Contributions* – The Special Committee recommends that the Board develop a policy and process on charitable contributions that at a minimum ensures that an appropriate business or community service purpose is documented.
2. *Ban on Partisan Campaign Activity* – UMMS’s existing policies prohibit the use of UMMS facilities, resources, or employee time on campaign activity.<sup>40</sup> The Special Committee recommends that the Board review, and, if appropriate, update and enhance those policies. Further, the Special Committee recommends that all payments to entities connected to government or political leaders at any level, and that are not approved through the normal supply chain, be reviewed and approved by the CCO, at a minimum, and require documentation of a valid business purpose.
3. *Establish Procedure for Review and Approval of Expenditures on Tickets, Travel and Entertainment for Board Members and Senior Executives* – The Special Committee recommends that the Board develop policies for how such expenses are reviewed and approved, require documentation of the business purpose of the expense, and allow for regular review by the

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<sup>40</sup> See Exhibit 13, Standards of Business Conduct, CC-1306A.

CCO to assure that all such expenses are not excessive and support UMMS's overall mission. Frequent or excessive expenditures by or on behalf of any individual or group of individuals should be discouraged.

4. *Hiring Policy* – UMMS currently has a policy against hiring the family members of officers and employees.<sup>41</sup> The Special Committee recommends revising the policy to include the family of Board members. In addition, to provide a fair and objective means for reviewing employment, internship, and other applicants, the Special Committee recommends establishing a policy that requires all referrals or recommendations by Board members to be handled by a designee of the ACC, who will be responsible for ensuring the application is processed fairly and with reasonable transparency.

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<sup>41</sup> See Exhibit 14, Employment of Relatives and Minors, S-106.

## Attachment A - List of Witnesses

Completed Interviews		
	Name	Title/Role
1	John Ashworth	Chief Executive Officer
2	Georges Benjamin, MD	Former Board Member
3	Kristin Jones Bryce	Chief of Staff to CEO; Vice President, External Affairs and Systems Integration
4	Jon Burns	Chief Performance Improvement Officer
5	R. Alan Butler	Board Member
6	John Coale	Former Board Member
7	Alicia Cunningham	Senior Vice President, Corporate Finance and Revenue Advisory Services
8	John Dillon	Former Board Member
9	James DiPaula, Jr.	Board Member (Chair)
10	George L. Doetsch, Jr., Esq.	Board Member
11	Henry Franey	Former Chief Financial Officer, Senior Advisor to the President and CEO
12	Wayne Gardner	Former Board Member
13	Louise Michaux Gonzales, Esq.	Board Member
14	Barry Pascal Gossett	Board Member
15	Michelle Gourdine, MD	Interim Chief Medical Officer
16	James Harkins	Former Board Member
17	Louis P. Jenkins, Jr., Esq.	Board Member
18	Orlan M. Johnson, Esq.	Former Board Member
19	Hon. Francis Xavier Kelly, Jr.	Former Board Member
20	Michelle Lee	Chief Financial Officer
21	Belkis Leong-Hong	Former Board Member
22	Bethany Mezzadra	Director, Disbursements
23	Sara Middleton	Former Board Member
24	Kenneth V. Moreland	Board Member
25	Korkut Onal	Board Member
26	Alfred A. Pietsch	Senior Vice President and Chief Financial Officer, BWMC
27	Louis M. Pope	Board Member
28	Robert Schneider	Former Board Member
29	Hon. James Smith, Jr.	Former Board Member
30	James Soltesz	Former Board Member
31	Jeffrey Stavely	Vice President, Chief Audit Executive and interim Chief Compliance Officer
32	Leonard Stoler	Board Member
33	Walter A. Tilley, Jr.	Former Board Member
34	Sara Middleton	Vice President, Supply Chain
35	Mark Wasserman	Senior Vice President, External Affairs
36	Hon. Alexander Williams, Jr.	Board Member (Vice Chair)
37	Jerry Wollman	Former Senior Vice President and Chief Administrative Officer
38	Ed Wuenschell	Vice President, Finance and System Controller

Not Interviewed: No Response		
	Name	Title/Role
1	Megan Arthur	Former Senior VP and General Counsel
2	Christine Bachrach	Former Vice President and Chief Compliance Officer
3	Robert Chrencik	Former Chief Executive Officer
4	August Chiasera	Former Board Member
5	Gilberto De Jesus	Former Board Member
6	Alan H. Fleischmann	Former Board Member
7	Edward J. Kasemeyer	Former Board Member
8	Kevin O'Connor	Former Board Member
9	Keith Persinger	Former Senior Vice President and Chief Performance Improvement Officer

10	Bruce Poole	Former Board Member
11	Robert Rauch, PE	Former Board Member
12	Antonio P. Salazar	Former Board Member
13	R. Kent Schwab	Former Board Member

Not Interviewed: Declined		
	Name	Title/Role
1	Stephen Burch	Former Board Member (Former Chair)
2	Robert Pevenstein	Former Board Member
3	Catherine Pugh	Former Board Member
4	Scott Rikfin	Former Board Member

## Attachment B - Lists of Board Members Reporting No Conflicts and Board Members Reporting Conflicts

Board Members Reporting No Conflicts		
	Name	Title/Role
1	Georges Benjamin, MD	Former Board Member
2	Stephen Burch	Former Board Member (Former Chair)
3	Michael Erin Busch	Former Board Member
4	R. Alan Butler	Board Member
5	John Coale	Former Board Member
6	Gilberto De Jesus	Former Board Member
7	James DiPaula, Jr.	Board Member (Chair)
8	George L. Doetsch, Jr., Esq.	Board Member
9	Alan H. Fleischmann	Former Board Member
10	Louise Michaux Gonzales, Esq.	Board Member
11	Barry Pascal Gossett	Board Member
12	Michelle Gourdine, MD	Former Board Member
13	James Harkins	Former Board Member
14	Louis P. Jenkins, Jr., Esq.	Board Member
15	Orlan M. Johnson, Esq.	Former Board Member
16	Edward J. Kasemeyer	Former Board Member
17	Belkis Leong-Hong	Former Board Member
18	Sara Middleton	Former Board Member
19	Kenneth V. Moreland	Board Member
20	Kevin O'Connor	Former Board Member
21	Bruce Poole	Former Board Member
22	Louis M. Pope	Board Member
23	Robert Rauch, PE	Former Board Member
24	Antonio P. Salazar	Former Board Member
25	Robert Schneider	Former Board Member
26	R. Kent Schwab	Former Board Member
27	Hon. James Smith, Jr.	Former Board Member
28	Leonard Stoler	Board Member
29	Joseph D. Tydings	Former Board Member
30	Hon. Alexander Williams, Jr.	Board Member (Vice Chair)

Board Members Reporting Conflicts		
	Name	Title/Role
1	August Chiasera	Former Board Member
2	John Dillon	Former Board Member
3	Wayne Gardner	Former Board Member
4	Hon. Francis Xavier Kelly, Jr.	Former Board Member
5	Korkut Onal	Board Member
6	Robert Pevenstein	Former Board Member
7	Catherine Pugh	Former Board Member
8	Scott Rikfin	Former Board Member
9	James Soltesz	Former Board Member
10	Walter A. Tilley, Jr.	Former Board Member