

**LOS ANGELES COMMUNITY COLLEGE DISTRICT  
BOARD OF TRUSTEES  
AD-HOC COMMITTEE ON PROPOSED CONTRACTOR DEBARMENT  
Educational Services Center  
Board Room – First Floor  
770 Wilshire Boulevard  
Los Angeles, California 90017  
Thursday, December 8, 2011  
9:30 a.m.**

Committee: Tina Park, Chair; Mona Field

Participants: Mr. Bradley A. Raisin, Attorney, Raisin & Kavcioglu; Ms. Camille Goulet, General Counsel, Los Angeles Community College District (LACCD), Mr. Thomas Hall, Interim Director, Facilities Planning and Development, LACCD; Mr. Nizar Katbi, FTR International, Inc.; Mr. Armenak Kavcioglu, Attorney, Raisin & Kavcioglu; Mr. David Orbach, Attorney, Orbach Huff + Suarez LLP; Mr. Keith E. Smith, Attorney, Wood Smith Henning & Berman; Mr. Stewart D. Reid, Attorney, Wood Smith Henning & Berman; Ms. Lauren Teukolsky, Attorney, Traber & Voorhees; and Ms. Theresa M. Traber, Attorney, Traber & Voorhees.

Reconvene Meeting from December 6, 2011 (9:30 a.m.)

The Ad Hoc Committee hearing reconvened at 9:30 a.m.

*For the record:* Trustee Park noted that both Committee members were present.

Public Speakers

None.

Continued Meeting and Hearing by the Ad Hoc Committee on Proposed Debarment as May be Necessary

Ms. Camille Goulet recommended to the Committee that it permit supplemental briefing by counsel for District Staff and FTR due to the voluminous exhibits introduced by each side and the complexity of the matters being presented and argued.

Ms. Teukolsky and Mr. Kavcioglu objected to the supplemental briefing if either side would be allowed to reference evidence not introduced in the Hearing. Ms. Goulet recommended to the Committee that the parties be directed to limit their briefing to evidence which was introduced in the Hearing and not refer to evidence not before the Committee or evidence subsequently excluded based on evidentiary objections. .

The Committee adopted the recommended hearing procedures as presented.

Further discussion was held regarding the process of exchanging lists of exhibits by each side and submitting supplemental briefings to the Committee for review prior to the January 10, 2012 Ad Hoc Committee hearing on Proposed Contractor Debarment.

Ms. Camille Goulet recommended to the Committee that it permit supplemental briefing by counsel for District Staff and FTR as to objections to evidence submitted during the Hearing and that counsel for the Committee provide a recommended response for the Committee on the evidentiary objections for the Committee's consideration.

The Committee adopted Ms. Goulet's recommendations concerning evidentiary objections to evidence.

Ms. Teukolsky continued her cross-examination of Mr. Robert Payinda with respect to the Los Angeles Valley College (LAVC) Allied Health and Science Center project.

Mr. Smith conducted a re-direct-examination of Mr. Payinda.

There being no objection, the Ad Hoc Committee hearing recessed at 10:35 a.m. and reconvened at 10:45 a.m.

*For the record:* Trustee Park noted that both Committee members were present.

Ms. Teukolsky further cross-examined Mr. Payinda.

With respect to the LAVC Allied Health and Science Center project, Trustee Field inquired as to the date the grand opening took place and the date when both buildings were occupied.

Ms. Goulet responded that Mr. Thomas Hall would need to research this information and report back to the Ad Hoc Committee.

The Court Reporter swore in Mr. Robert Dieken.

Mr. Smith examined Mr. Dieken with respect to the LAVC Allied Health and Science Center project; Allegation Number 2.

Mr. Kavcioglu cross-examined Mr. Dieken.

There being no objection, the Ad Hoc Committee hearing recessed for lunch at 12:00 p.m. and reconvened at 1:30 p.m.

*For the record:* Trustee Park noted that both Committee members were present.

Mr. Kavcioglu continued his cross-examination of Mr. Dieken.

*For the record:* Mr. Kavcioglu read into the record an excerpt from the following deposition of Mr. Norman Roberts, Senior Project Manager, Pankow Special Project dated 4/11/11 in which LACCD's attorneys were present. He read from page 169 line seven to page 170 line one. **(Hard copy was not provided.)**

Question: That \$352,595 includes money for Southland, right?

Answer: Correct.

Question: And, \$352,595 also includes money for an electrical contractor, right?

Answer: Yes.

Question: Is that SASCO?

Answer: It could be.

Question: Do you know the number?

Answer: I don't know, I don't know if that's an electrical subcontractor of Southland's or is that SASCO.

Question: Okay, and that \$352,595 that is in Exhibit 8, and I'm referring to the exhibit from the deposition that is in the same document; does not include—start again.

Question: And, the \$352,595 that is in Exhibit 8 does not include any money for Pankow, correct?

Answer: Correct.

Question: No general conditions for Pankow in the \$352,595?

Answer: Correct.

Question: And no markup for Pankow in the \$352,595?

Answer: Correct.

Mr. Kavcioglu continued his cross-examination of Mr. Dieken.

Mr. Smith objected that Mr. Kavcioglu was not asking questions of the witness but was simply reading from a deposition to make an argument.

Mr. Orbach recommended to the Committee that Mr. Kavcioglu be allowed to continue anticipating that a question was forthcoming.

The Committee adopted Mr. Orbach's recommendation and overruled the objection.

Mr. Kavcioglu continued his cross-examination of Mr. Dieken.

Mr. Smith conducted a re-direct examination of Mr. Dieken.

There being no objection, the Ad Hoc Committee hearing recessed at 2:31 p.m. and reconvened at 2:43 p.m.

*For the record:* Trustee Park noted that both Committee members were present.

With respect to Allegation Number 3, Mr. Reid introduced Exhibits on behalf of District Staff marked as Binders C-1, C-2 and C-3..

Mr. Reid examined Mr. Dieken regarding Allegation Number 3 concerning the water damage at the LAVC Allied Health and Science Center.

Mr. Kavcioglu cross-examined of Mr. Dieken.

Mr. Reid further examined Mr. Dieken.

An objection was made by Mr. Kavcioglu that Mr. Reid was leading the witness.

Mr. Orbach recommended to the Committee that the objection be overruled and the witness be allowed to answer.

The Committee adopted Mr. Orbach's recommendation and overruled the objection.

The Court Reporter swore in Mr. Robert Tittle..

There being no objection, the Ad Hoc Committee hearing recessed at 2:52 p.m. and reconvened at 3:02 p.m.

*For the record:* Trustee Park noted that both Committee members were present.

*For the record:* Ms. Goulet noted that the demonstrative items and devices brought into the hearing room by District's Staff and Mr. Tittle had not been previously been shown to FTR Counsel. Ms. Goulet recommended to the Committee that the demonstrative evidence and devices be made available to the full Board at the time when the Committee makes its recommendation to the full Board.

The Committee adopted Ms. Goulet's recommendation.

Mr. Kavcioglu indicated that FTR Counsel had, in fact, been made aware and had the opportunity to review the demonstrative devices at a previous mediation.

*For the record:* Mr. Reid further clarified that the demonstrative evidence was identified in District Staff's notice to FTR regarding the debarment hearing and that FTR had been given the opportunity to review the evidence presented to the Committee before the hearing.

Mr. Reid proceeded with a PowerPoint presentation that summarized and contained prior reports and tests concerning water penetration into the LAVC Allied Health and Science Center and how the water penetration was the result of the FTR's failure to construct the building according to the project documents and industry standards which concern Allegation Number 3.

Mr. Tittle testified concerning the investigation process with respect to Allegation Number 3 and the findings he made as a result of the testing and his investigation.

Mr. Tittle approached the mock-up demonstrative evidence and discussed the nine issues that caused the water damage to the LAVC Allied Health and Science Center.

Trustee Field inquired if the wall had been removed to expose the interior of the wall.

Mr. Tittle responded in the affirmative.

There being no objection, the Ad Hoc Committee hearing recessed at 3:53 p.m. and reconvened at 4:05 p.m.

*For the record:* Trustee Park noted that both Committee members were present.

Mr. Reid continued his examination of Mr. Tittle.

With respect to Binder C-1, page 137, Mr. Tittle testified regarding the “spray water test” that was conducted to determine the water damage to the LAVC Allied Health and Science Center and the mechanism of failures that resulted in water damage throughout the building envelope.

Discussion by the Committee Regarding Recommended Findings (Upon Conclusion of the Staff and Opposition Presentations)

None.

Recess for the Day

There being no objection, the Ad Hoc Committee hearing recessed at 4:32 p.m.

*For the record:* Trustee Park announced that the Ad Hoc Committee on Proposed Contractor Debarment will reconvene on Friday, December 9, 2011 at 9:30 a.m.