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IN THE MATTER OF PETER KIERNAN,  
a former New York State Executive Chamber Employee

RECEIVED DEC 14 2012

Respondent

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SUBSTANTIAL BASIS INVESTIGATION REPORT  
AND SETTLEMENT AGREEMENT

Case No. 12-79

WHEREAS, the Joint Commission on Public Ethics (the "Commission") has authority pursuant to Executive Law §94 to conduct an investigation to determine whether a substantial basis exists to conclude that a violation of the Public Officers Law has occurred, to issue a report of its finding of a substantial basis to conclude that a violation has occurred, and to impose penalties for such violation as provided for in the Executive Law;

WHEREAS, this Settlement Agreement ("Agreement") is entered into by and between the Commission and Peter Kiernan ("Respondent");

WHEREAS, the Respondent served in the Executive Chamber as Counsel from 2008 through December 31, 2010;

WHEREAS, the Respondent is subject to the two-year bar applicable to Executive Chamber employees set forth in Public Officers Law §73(8)(a)(iv), which provision was further interpreted by the Commission in Advisory Opinion No. 11-01;

WHEREAS, on July 27, 2011, the Respondent became Of Counsel to Schiff Harden LLP located at 666 Fifth Avenue, Suite 1700, New York, New York 10103;

WHEREAS, on June 1, 2012, a letter was sent to Respondent alleging violations of Public Officers Law §73(8)(a)(iv) which afforded Respondent 15 days in which to respond to the allegations in writing;

WHEREAS, on July 3, 2012 the Commission issued a Notice of Substantial Basis Investigation;

WHEREAS, in lieu of appearing in an adjudicatory proceeding that could result in the assessment of a civil penalty, the parties to this Agreement have agreed to resolve this matter and avoid further investigation and administrative proceedings;

NOW THEREFORE, in consideration of the mutual covenants made herein, as the final settlement of the violations set forth herein, the parties stipulate and agree that:

I. The conduct described in (i) and (ii) herein constitutes two separate violations of Public Officers Law §73(8)(a)(iv) notwithstanding that Respondent contends that he did not understand that the conduct involved prohibited appearances:

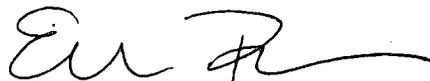
(i) On or about December 14, 2011 and in response to a Request for Proposals for a three-year contract for Disclosure and Public Finance Counsel Services issued by the New York State Division of Budget, Schiff Hardin LLP submitted a proposal in which the Respondent was the signatory and described therein as "lead partner and counsel;" and

(ii) On or about February 1, 2012 and in response to a Request for Proposals for a three-year contract for Outside Counsel Legal Services issued by the New York State Thruway Authority, Schiff Hardin LLP submitted a proposal in which the Respondent was the signatory and described therein as "lead attorney."

(iii) Schiff Hardin LLP was not awarded either contract. The Respondent was a salaried employee of Schiff Hardin LLP and would not have shared in the net revenues Schiff Hardin LLP would have earned if the firm had been awarded one or both of the contracts.

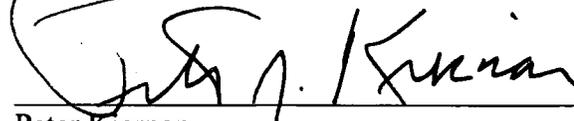
- II. Respondent agrees to personally pay three thousand and five hundred dollars (\$3,500) to the Commission within thirty (30) days following execution of this Agreement. Payment shall be made by bank or certified check made payable to the Joint Commission on Public Ethics. Fulfillment of this agreement shall terminate the enforcement proceeding.
- III. If full payment is not received within 30 days of the execution of this Agreement, this Agreement shall become null and void in its entirety.
- IV. It is understood and agreed that this Report/Agreement is not confidential and that the Commission shall make such Report/Agreement public within forty-five days of execution pursuant to Executive Law §§94(14-b) and (19).
- V. Notwithstanding the provisions of this Agreement, the Respondent understands and acknowledges that the Commission may investigate other knowing and intentional violations not covered by this Agreement, if any, by the Respondent, of the Public Officers Law.
- VI. The Respondent hereby waives any and all legal rights to appeal or challenge this final disposition in an article 78 proceeding or by any other means.
- VII. Any amendment or modification to this Agreement shall be in writing and signed by both parties.

Dated: December 17, 2012



New York State  
Joint Commission on Public Ethics

Dated: December 11, 2012



Peter Kiernan  
Respondent