



**INTERIM REPORT OF THE OFFICE OF THE
ATTORNEY GENERAL ON THE INVESTIGATION
CONDUCTED PURSUANT TO SECTION 4-61dd OF
THE CONNECTICUT GENERAL STATUTES**

**CENTRAL CONNECTICUT STATE UNIVERSITY'S
NEGOTIATION AND EXECUTION OF AN ILLEGAL
FOOD SERVICES CONTRACT**

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**RICHARD BLUMENTHAL
ATTORNEY GENERAL**

EXECUTIVE SUMMARY

In June, 2004, one week before his announced retirement, Central Connecticut State University President Richard Judd executed a no-bid contract with the Chartwells Division of Compass Group USA, Inc. ("Chartwells"), granting Chartwells the exclusive right for 10 years, beginning July 1, 2004, to sell food products on CCSU's campus, and agreeing to pay Chartwells at least \$40 million over the term of the contract. CCSU personnel intended that this 10-year, \$40 million contract was to be "piggybacked"—as they termed it--onto a competitively bid 2001 Chartwells contract with Southern Connecticut State University, and implemented through a mere purchase order.

The 10-year no-bid food service contract between CCSU and Chartwells was illegal and void at the moment it was signed. According to clearly defined state statutes and Connecticut State University Board of Trustees's policies, the food service contract was required to be competitively bid, was required to be executed as a Personal Service Agreement containing all state required provisions, protections and procedures, and was required to be reviewed and approved by the Office of the Attorney General. None of this occurred prior to the execution of the contract by former CCSU President Judd. Furthermore, the concept of "piggybacking" this contract onto a 2001 SCSU contract - - a three year old contract containing different terms, conditions and costs - - does not exist in state law or CSU Board of Trustees's policies, and is as inappropriate as it is illegal.

Our investigation reveals that Frank Resnick, CCSU's Chief Financial Officer, was the CCSU employee primarily responsible for the no-bid Chartwells contract. Resnick appears to have had a close association with Chartwells, accepting numerous golf outings, paid for by Chartwells, with the Chartwells employees who would negotiate the 2004 contract. When

Chartwells's original contract expired in 2001, Mr. Resnick made several legally questionable extensions of Chartwells's contract and, based on our investigation, it appears that by March 2002, Mr. Resnick had already determined that the new CCSU food service contract would not be competitively bid and that it would be awarded to Chartwells.

Mr. Resnick took extraordinary steps to ensure that Chartwells received the 2004 no-bid contract, ignoring state statutes and CSU Board of Trustees's Policies requiring competitive bidding and other contracting procedures, contemptuously disregarding legal advice given to him by CCSU's counsel, and failing to accurately inform CCSU President Judd of critical facts. He thereby gave Judd and others the erroneous impression that the contract conformed to all applicable contract award requirements and had been reviewed and approved by CCSU's legal counsel. By seeking to use a mere purchase order to implement the 10-year, \$40 million contract, instead of the required Personal Services Agreement, Resnick sought to avoid legal scrutiny of the contract, either by CCSU's counsel or the Office of the Attorney General. Finally, Resnick reached two "oral agreements" with Chartwells concerning the 10-year contract, which were legally suspect and possibly unknown to his superiors or to CCSU's legal counsel, and may have jeopardized tax exempt bonds issued by the Connecticut Health and Educational Facilities Authority for construction projects at CCSU.

Other employees at CCSU share some of the blame for this illegal contract. In particular, Elene Demos, Senior Vice President of Administration, was aware of some of Resnick's actions, but did not attempt to stop Resnick or prevent former President Judd from signing the contract. Demos was also present when Resnick failed to accurately inform former President Judd of critical facts, but said nothing to correct the inaccurate impression Resnick's statements conveyed to Judd.

Former President Judd had established procedures to ensure that contracts such as the food services contract would be reviewed by his legal counsel. However, prior to signing the contract with Chartwells, Judd neither determined whether this procedure had been followed nor consulted with his Counsel to determine whether she had reviewed and approved the contract.

Although this illegal contract was voided by CCSU Interim President Robert Aebersold on July 22, 2004, the process by which this contract was allowed to be executed by former President Judd is deeply disturbing, showing a possibly widespread ignorance of or disregard for state law and CSU Board of Trustees's Policy. Immediate steps must be taken to ensure that all CCSU purchasing and contract personnel, and their supervisors, closely adhere to the letter and spirit of all legally required contracting policies and procedures.

Interim Findings

- As a result of a competitive bidding process, CCSU executed a contract for Daka, Inc., to provide food services to CCSU for the period 1996-2001. In 1997, Chartwells's parent company acquired Daka, Inc., and Chartwells assumed responsibilities under the contract.
- Frank Resnick's duties included negotiation and operational responsibility for CCSU's food services contract. Between 2001, when CCSU's 5-year contract with Chartwells expired, and 2004, when Judd executed CCSU's illegal 10-year contract with Chartwells, Resnick "extended" Chartwells's contract on questionable legal grounds, and without using required procurement documents or obtaining review by University Counsel or the Attorney General. During this time, Resnick negotiated with Chartwells the illegal 10-year contract.
- Mr. Resnick testified that he was impressed with the professionalism Chartwells brought to the job and the service it provided to the University. He knew Chartwells's employees professionally and personally, and played golf with some of them.
- By March, 2002, and probably earlier, Resnick had decided that CCSU would not engage in a competitive bidding process for the 10-year contract. Instead, he decided to "piggyback" this agreement on a food services contract Southern Connecticut State University ("SCSU") had executed with Chartwells in 2001. According to Resnick because SCSU's 5-year contract with Chartwells had gone to bid, CCSU could agree

to a 10-year contract providing for a different scope of food services and different terms, conditions and pricing than the SCSU contract, without engaging in competitive bidding.

- No statutes, policies, procedures or other authority support the use of “piggybacking”--as understood and explained by Resnick and others at CCSU-- as a proper basis to avoid state competitive bidding requirements. Additionally, Resnick’s understanding of “piggybacking” is not recognized, utilized or approved by the Department of Administrative Services, the CSU System Office, or any other authoritative source for state agency procurement.
- Chartwells agreed to two provisions obligating the company to make financial payments to CCSU that were not included in Chartwells’s 1996-2001 contract with CCSU. Although Resnick viewed these payments as part of the illegal 10 year agreement, Resnick agreed to Chartwells’ request that they be omitted from the written contract so that other universities doing business with Chartwells, some of whom were Connecticut State University (“CSU”) institutions, would not learn of them and ask for the same payments.
- One provision involved a “profit-sharing” arrangement pursuant to which Chartwells paid CCSU \$27,852 in fiscal year 2002-2003. The Connecticut Health and Educational Facilities Authority (“CHEFA”) issued bonds to finance construction and renovation of CCSU’s Student Center and Memorial Hall, where Chartwells provided food services to the University community. When Internal Revenue Service requirements are met, the interest on these bonds is tax exempt. Prior to issuing these bonds, CHEFA’s bond counsel was required to determine that the IRS requirements were met. Between 2002 and February 18, 2004, Resnick signed at least 3 certifications for bond counsel attesting that the food service contract met certain requirements, including that compensation for the food services provider is not based, in whole or in part, on a share of net profits from the operation of any part of a facility financed by CHEFA bonds. Resnick failed to disclose his oral “side agreements,” including his profit-sharing arrangement, to bond counsel. As a result of information developed by our investigation, bond counsel is reviewing the facts to determine the possible consequences of Resnick’s conduct in this regard.
- We conclude that Resnick’s decision not to competitively bid CCSU’s food services contract violated express provisions of state statutes and the Board of Trustees’s Policies.
- Former President Judd instructed Resnick to submit the Chartwells contract to Carolyn Magnan, Counsel to the President, for review before he signed it. Resnick did so, but did not inform Magnan that the contract he presented her was not the result of a competitive bidding process, or that he was not going to engage in a competitive bidding process.

- Magnan included certain legally required provisions in the draft contract she returned to Resnick, and advised him that the final draft would need to be submitted to the Attorney General's Office ("AGO") for review and approval. Resnick removed some of these provisions, and advised Demos that AGO approval was not necessary. Demos concurred.
- Resnick and Demos never disclosed to Magnan that Resnick had removed certain legally required provisions she had inserted into the draft from the contract they presented to Judd for his signature. They never disclosed to Magnan that they had decided not to submit the contract to the AGO.
- Resnick decided to use a procurement form known as a "purchase order" instead of a Personal Services Agreement to execute the Chartwells 10-year contract, explaining that contracts attached to purchase orders are not required to be submitted to the AGO. Judd signed the contract without a PSA. In fact, when Judd signed the contract, no purchase order had been prepared. CCSU never submitted the contract to the AGO.
- Resnick's decisions not to use a PSA to execute this contract and not to submit it to the AGO violated express provisions of the Board of Trustees's and CCSU's Policies.
- Before signing the contract, Judd held a meeting with Resnick and Demos and made certain inquiries. In response to Judd's direct question whether Magnan had reviewed the contract, Resnick answered in the affirmative, but failed to disclose that Magnan had not seen or reviewed the final version he was presenting to the President, that he had removed certain provisions that Magnan had inserted in the draft she reviewed, or that he had removed from the contract the signature line for AGO approval that Magnan had inserted. Demos remained silent and did not offer this information. When asked whether she made any attempt to set the President straight Demos replied, "No. I wish I had." According to Resnick, his plan to avoid AGO review was a "gray area" but "not illegal," but he believed that Magnan "will no doubt recommend against such an approach."
- Judd and Demos testified that before signing the contract, Judd further asked Resnick and Demos if the contract had gone to bid, to which Resnick replied it had not, and explained his use of "piggybacking." Demos testified she had believed the contract must go to bid, and asked Resnick about this in 2003. Demos stated she was persuaded by Resnick's explanation at the time of his use of "piggybacking." Demos did not offer this information when Judd asked whether the contract must go to bid. Resnick denied, however, that Demos ever asked him whether the contract must go to bid, or that he discussed this matter with her. Resnick further testified that Judd had "absolutely not" asked if the contract must go to bid during the meeting before he signed the contract.
- Magnan testified that in early May, 2004, five months after Resnick had last sent a draft for her review, Demos informed her that the contract had not gone to bid and

asked for legal advice. Magnan testified she advised Demos the contract must go to bid. Magnan further testified that on June 21, three days before Judd signed the contract, CCSU's Chief Administrative Officer told her Resnick was trying to "push through" the Chartwells contract. Magnan took steps to prevent Resnick from obtaining Judd's signature on a contract that had not gone out to bid. Believing that her efforts had been successful, Magnan did not advise Judd personally not to sign the contract.

- Judd did not inform Magnan that Resnick and Demos had presented the contract to him for his signature. He did not ask Magnan to confirm that she had reviewed the contract. He required nothing in writing from Magnan indicating that she had reviewed and approved the contract. He did not invite her to attend his meeting with Resnick and Demos at which he made inquiries and signed the contract. Unaware that Resnick had sent Magnan "as little as possible" on the Chartwells contract and "hadn't copied her on any correspondence in the last six months or more...she was out of the process," Judd relied on two non-lawyers to interpret and communicate his own attorney's advice and recommendations. By failing to ensure compliance with his own established requirement that his Counsel review the contract, Judd created the opportunity for Resnick and Demos to provide him inaccurate information in response to his direct questions.
- The evidence shows that Resnick purposefully kept Magnan "out of the process." He had no respect for her work and believed it had been of no value to his office. He characterized her in expletives and as "many people's frustration and worst nightmare" in e-mails to colleagues. He testified that he chose not to follow her advice that the contract must be reviewed by the AGO. Documents show Resnick removed legally required provisions Magnan had included in the draft contract because "the legalese is overkill." He concealed these actions from Magnan, never presented for her review the version of the contract he actually presented to Judd for his execution, and did not accurately respond to Judd's direct questions.
- Judd testified that had Resnick or Demos provided this information, or told him they disagreed with recommendations of his Counsel, he would have pursued additional inquiries before agreeing to sign the contract. "I think I would have held the procedure up and asked for a review." The evidence indicates that Resnick's and Demos's failure to accurately inform Judd in response to his direct questions to them was the most significant conduct contributing to Judd's execution of the illegal contract.
- According to Resnick's testimony, he accepted golf outings paid for by CCSU's vendors approximately 14-18 times over the past two golf seasons. Most involved playing in a group of players for whom Chartwells paid the entry fees in charity fundraising tournaments, and for which Resnick did not reimburse Chartwells. According to Resnick, he generally played with Nelson DeFigueiredo, the Chartwells employee with whom he negotiated the 10-year contract, and Greg Coady, DeFigueiredo's supervisor. Resnick's supervisors did not ask him to play golf in

these events and CCSU's official job description for the Chief Financial Officer includes no duties or responsibilities that reasonably could be interpreted to require Resnick to play golf in these tournaments at Chartwells's expense. According to the Code of Ethics, Chartwells's payment of Resnick's entry fees were impermissible gifts to a state employee provided by a company that does and seeks to do business with his agency. An investigation into these matters is pending before the state Ethics Commission. Resnick's actions further appear to have violated CSU and CCSU policies and procedures governing ethical conduct by employees.

Interim Recommendations

1. CCSU, with the assistance of the CSU System Office, should undertake a comprehensive education and training effort directed to CCSU employees involved in procurement. CCSU's procurement employees must know and follow the Policies of the Board of Trustees and statutory requirements regulating procurement practices.

2. CCSU must insure that employees no longer invent insupportable theories such as "piggybacking" and using purchase orders to avoid competitive bidding and appropriate review by legal counsel when concluding a 10 year, \$40 million contract to procure professional services for the University.

3. CCSU should require that the Senior Vice President of Administration, who supervises the Chief Financial Officer, have experience and formal training in proper procurement procedures and requirements.

INTERIM REPORT

1. **State statutes expressly required CCSU to base its 10-year, \$40 million purchase of food services on competitive bids or proposals.**
 - Conn. Gen. Stat. § 10a-151b(a) imposes on CCSU two requirements regarding the purchase of food services: its purchases must be made in accordance with this statute, and in accordance with policies adopted by the CSU Board of Trustees ("BOT").

- Conn. Gen. Stat. § 10a-151b(b) requires that CCSU's purchases "shall be based, when possible, on competitive bids or competitive negotiations." This section further requires that for expenditures estimated to exceed \$50,000, competitive bids or proposals shall be solicited by public notice published in newspapers and on the Internet. No one from CCSU has claimed that it was not possible to put the Chartwells contract out to bid. To the contrary, Chartwells's original contract expired in 2001, 3 years before the new contract was signed by former President Judd, more than sufficient time to go to bid.
- The statute provides for two exceptions to the requirement that contracts go to competitive bid: minor purchases of \$10,000 or less, and emergency purchases. Neither exemption applied here. Judd, Demos and Resnick all testified that the primary impetus for concluding the contract in June, 2004 was Judd's desire to conclude this and other pending matters before he retired June 30, 2004.

2. Policies of the Connecticut State University Board of Trustees ("BOT") expressly required CCSU to base its 10-year, \$40 million purchase of food services on competitive bids or proposals.

- In 1996, the BOT adopted and published procedures in a Policy Book, pursuant to which "the Board of Trustees adopts the following procedures regarding purchasing, personal service agreements, honoraria, travel, and equipment inventory and disposition of surplus property."
- Policy Book § 6.2.1 "Purchasing Procedures" provides: "The purpose of this document is to provide procedures to implement the provisions of C.G.S. 10a-151b regarding the purchase of all commodities, equipment, public safety and emergency vehicles and equipment, contractual services, printing, publishing, microfilming and lease of personal property."
- Policy Book § 6.2.2 specifically addresses personal service agreements and honoraria. Policy Book § 6.2.2.3.b) requires agreements to purchase personal services over \$50,000 or for a term of more than one year to be based on a competitive bidding process.
- Policy Book § 6.2.2.2 provides that "personal services" are "services of a professional nature, consulting and/or honoraria."
- A review of CCSU's contracts with Chartwells clearly shows that CCSU was purchasing "services of a professional nature." The 1996-2001 contract makes clear that the University was purchasing a professional service. The document soliciting bids stated, "[t]he University is seeking a nutritional, high quality, cost effective and innovative solution to the complex food service needs of the campus covering students, faculty, staff and guests. These services must be provided in a manner which will enhance campus academic and student life programs." The

successful contractor “shall provide professionally trained, salaried, management personnel (not student managers) in each unit as designated by the University. The contractor’s management staff shall cover all meals, preparation, special dinners and catering events and operational hours as determined by the University.”

- The 2004 contract required Chartwells to “operate and manage its Dining Services”; “to comply with all laws and regulations” regarding “preparation, handling, and serving of foods...procure and keep in effect all licenses and permits required by law...comply with all...laws and regulations pertaining to wages and hours of employment”; to “perform all necessary cleaning and mopping of floors in storage and food service preparation areas, including dining room tabletops...maintain conditions of sanitation and cleanliness.” These and other obligations Chartwells undertook to CCSU constitute performance of “services of a professional nature.”
- Moreover, Resnick’s testimony established that CCSU was purchasing professional services from Chartwells. He referred to Chartwells as a “service vendor” and described the contract as “service contract,” explaining “[w]e’re providing a food service to students. And to me a food service is more than putting out apples and orange juice and cheeseburgers. The key to any service contract, absolute key, and you can leave the room call up 100 CFOs and ask them about their outsource services, they will tell you that the key to that outsource service in any auxiliary area is the management. And Central I believe has been blessed by outstanding management and a management team, and Chartwells continued to provide some of their top managers here.” Resnick emphasized that Chartwells’s representative assigned to CCSU, with whom he negotiated the 2004 contract, had continued to maintain his office on CCSU’s campus after being promoted to regional manager, stating the presence of “a senior management team member on campus is a benefit that you couldn’t even put a dollar value on.” Resnick further explained that providing food service to the University community is “far more than the quality of the ham sandwich...it’s the professionalism...I know the food service business. The management team is key, and professionalism and whether they provide nutritionists and all the other little things that we have got them to do over the years have demonstrated to us and I think proved to us and others—you know, proved to the management here at Central that this was a company that we hoped we could keep on campus.”
- The evidence establishes that the CCSU-Chartwells 10-year, \$40 million food services contract was a contract for “personal services” as defined by the BOT Policy Book. These policies expressly required CCSU to base its 10-year, \$40 million food services contract on competitive bids or proposals.

3. Between 2001, when CCSU’s 5-year contract with Chartwells expired, and 2004, when Judd executed CCSU’s illegal 10-year contract with Chartwells, Resnick

“extended” Chartwells contract on questionable legal grounds, and without using required procurement documents or obtaining review by legal counsel.

- Resnick testified that when the 1996-2001 Chartwells contract expired, CCSU was renovating its Student Center. He stated that he and others believed that vendors might find it difficult to structure a bid package for a food services contract when one of the facilities in which the vendor would operate was under construction. Resnick assumed CCSU would generate minimal interest if it solicited bids. Resnick emphasized that CCSU’s administrators were very satisfied with Chartwells, and CCSU decided to extend the 1996-2001 contract “on an ongoing basis.” When renovations to the Student Center were substantially complete in 2002, CCSU had commenced discussions about making renovations to Memorial Hall, the primary food service facility on campus. CCSU decided to continue using Chartwells until negotiations on a new, long-term contract were concluded. Resnick, who was responsible for these negotiations, stated that he delayed concluding these negotiations. “I’m a bit of a procrastinator, and so we just—we just kept the contract.”
- A review of CCSU’s documents identified letters from Resnick to Chartwells confirming contract “extensions” dated May 7, 2001 for the fiscal year 2001-2002, and dated June 5, 2003 for fiscal year 2003-2004. To date our investigation has located no record that Resnick agreed to or memorialized a contract extension for fiscal year 2002-2003. Even if Resnick’s May 7, 2001 letter properly extended the 1996-2001 contract for fiscal year 2001-2002, which is doubtful, it appears that Chartwells may have been operating without any authority after the first “extension” expired in 2002. Resnick recalled that the second extension “was probably more open-ended.”
- Resnick did not ask University legal counsel or the AGO whether CCSU had legal authority to extend the 1996-2001 contract, or whether his “extensions” were proper. Resnick did not memorialize the “extensions” using a PSA or any other official procurement document, but simply sent a letter to Chartwells confirming the extensions. He never submitted anything relating to these “extensions” to University Counsel or the AGO for review and approval.
- The validity of Resnick’s assumption that CCSU would generate minimal interest from vendors if it solicited bids during the renovations to campus facilities cannot be determined because, according to Resnick’s testimony, CCSU never attempted to solicit bids or determine if other food service vendors were interested in bidding on a new contract. The evidence shows, however, that Chartwells was not deterred from making an offer and negotiating a 10-year agreement during this time. Indeed, documents show that in March, 2000, Chartwells proposed to Resnick a two-year extension of the then existing contract when it expired in 2001, and offered financial terms on which the company proposed a new, long-term contract for up to 10 years. Later, Chartwells’s corporate officials expressed concern that CCSU had not signed a new contract with the company. In June,

2003, officials from Chartwells's corporate parent planned to conduct a campus visit to address any problems that may have caused CCSU not to conclude a new agreement. When informed of these plans, Resnick objected to the visit as "a total waste of time and energy." Resnick explained in an e-mail to Chartwells's Vice President that CCSU's delay in concluding the contract did not indicate that Chartwells had any problems with CCSU, but "rests solely with me and my procrastination with it." Resnick acknowledged that Chartwells's representative who negotiated the new contract with Resnick had engaged in "more than regular pleading and insisting," but explained that "[I]'ve just left the contract undone, again, quite frankly because I am so pleased with the operations and comfortable with our relationship that our verbal agreements are more important to me than a written piece of paper." Chartwells's Vice President, however, agreed with the purpose of the visit, replying to Resnick: "I must also say that I do actually agree with the intent [of the on campus visit] because if for some reason (you get sick, hurt, etc.) you are no longer around and somebody else in the system puts this to bid I will clearly look like I have been sleeping at the wheel. At least there will be an audit trail and that can't hurt any of us."

- The evidence does not clearly explain the basis on which CCSU agreed to extend the 1996-2001 contract for 3 years, and strongly suggests that CCSU lacked authority to agree to any of Resnick's "extensions." Thomas Brodeur, CCSU's Purchasing Manager, testified that contracts properly may be extended when the original contract provides for extensions limited to specific time periods upon agreement of the parties. After reviewing the 1996-2001 food services contract, Brodeur testified that he could find no provision authorizing an extension of the contract. Brodeur further testified that his job duties included being involved in decisions to extend contracts that were required to go to competitive bidding. Brodeur testified Resnick neither involved him in, nor informed him of the decisions to extend the 1996-2001 contract for three years. Brodeur was not aware that Resnick was negotiating a long-term contract with Chartwells after the previous contract expired in 2001. He stated that the proper course would have been to involve him, as Purchasing Manager, in the decisions to extend the expired contract and the negotiations for the 10-year contract. Brodeur agreed that he was "kept out of the loop."
- Charles Wallach, former CCSU Bursar, for many years had responsibility for day-to-day oversight of the vendors' performance of food services contracts. Beginning in the mid-1990s, until his retirement, he reported to Resnick. Wallach knew that CCSU had extended the 1996-2001 contract. Wallach recalled conversations with Resnick about extending the contract, and he believed that Resnick told him he had decided to extend the contract. Wallach testified that his understanding was that CCSU relied on Section 2.4 of the 1996-2001 contract, titled "Excused Performance," as the basis for agreeing to the contract extensions during renovations to Memorial Hall. This section provides that performance of the contract shall be suspended and excused "if because of riots, war, public

emergency or calamity, fire, flood, earthquake, act of God, government restriction, business operations at the University are interrupted or stopped,” and that the expiration date of the contract may be extended for a period of time equal to the time performance is suspended. Wallach conceded that no riot, war, public emergency, calamity, fire, flood, earthquake, act of God or government restriction had occurred at CCSU or interrupted or stopped food service operations at the Student Center or Memorial Hall. He claimed that because Chartwells’s operations had been affected by the planned renovations to these facilities, this provision of the contract provided authority for and was relied upon by CCSU to extend the contract.

- During his testimony, Resnick did not reference this contract provision, or otherwise claim that he extended the 1996-2001 contract because Chartwells’s performance had been interrupted or suspended by the planned renovations to the Student Center and Memorial Hall. Resnick claimed that he determined that while these facilities were undergoing renovation, food service vendors would not be interested in bidding on a contract. He testified that the University was satisfied with Chartwells’s service, and he procrastinated in completing negotiations with Chartwells on a new contract after the previous contract expired in 2001, so he and others decided to continue doing business with Chartwells by extending the 1996-2001 contract.
- Although the facts do not make clear on what basis CCSU agreed to extend the 1996-2001 contract, or that CCSU properly agreed to any of Resnick’s “extensions,” the facts do indicate that Resnick preferred that Chartwells continue as CCSU’s food services vendor when the 1996-2001 contract expired. Chartwells proposed to Resnick a long term contract, including for 10 years, as early as 2000. Resnick never responded to Chartwells that a new agreement must or would result from competitive bidding. After the 1996-2001 contract expired, Resnick took no action to solicit bids or otherwise attempt to determine if other food service vendors were interested in bidding on a new contract. He procrastinated in concluding a new contract, but agreed to “extensions” that continued Chartwells as CCSU’s food services provider until the new contract was signed in 2004. By March, 2002, and probably before, Resnick had decided not to engage in competitive bidding for the new contract. In the 6 months before Judd signed the 10-year contract in 2004, Resnick sent for review to the President’s Counsel “as little as possible.” Resnick impermissibly used a purchase order to avoid submitting this contract for approval to the AGO. Throughout the process of “extensions” of the 1996-2001 contract, and negotiations for the 10-year, \$40 million contract, Resnick kept CCSU’s purchasing manager “out of the loop.” Resnick’s actions show he preferred to keep Chartwells as CCSU’s food services vendor.

4. Resnick incorrectly determined and advised his superiors that CCSU was not required to bid the contract because he was “piggybacking” on a contract

Chartwells had signed in 2001 to provide food services to Southern Connecticut State University (“SCSU”).

- Resnick testified that he had developed a very positive view of Chartwells’s performance and wanted to take advantage of every opportunity not to go to bid. He stated it was “absolutely correct” that a “piggyback” arrangement using the SCSU contract presented such an opportunity.
- Resnick further explained that “[w]e’ve been through the bidding process [for a food services contract] twice, so I’ve been through it. I know what it is. And even when you bid, you never know what management team you’re getting. You never know how responsive the company is going to be. And that’s just another reason why I felt just, you know, it wasn’t necessary to bid. We had a good contract, and we wanted to keep it—the university wanted to keep it.”
- By March, 2002, and possibly earlier, Resnick had decided that CCSU would not engage in a competitive bidding process for the 10-year contract, because he was “piggybacking” on a food services contract Southern Connecticut State University (“SCSU”) had executed with Chartwells in 2001. Resnick determined that because SCSU’s 5-year contract with Chartwells had gone to bid, CCSU could conclude its 10-year contract providing for a different scope of food services and different terms, conditions and pricing than the SCSU contract, without engaging in a competitive bidding process.
- Resnick’s 10-year contract with Chartwells makes no reference to SCSU’s contract with Chartwells, or otherwise indicates or suggests that CCSU was “piggybacking” on or using SCSU’s contract as a basis for CCSU’s contract.
- As discussed above, the BOT’s Policies expressly required CCSU to base this agreement to procure professional services on competitive bids or proposals. BOT Policy Book § 6.2.2.3.c) provides seven exceptions to the bidding requirement, none of which applied here, and none of which include “piggybacking” onto an existing contract of another CSU institution. None of the seven enumerated exceptions permit CCSU to use an existing vendor of another CSU institution and agree to different terms, conditions, pricing and scope of services without competitive bidding.
- The statutes and BOT Policies do not provide for any exception to the bidding requirements that applied to CCSU’s contract with Chartwells. Even if the BOT Policies provided an exception to the competitive bidding requirement for “piggybacking,” which they do not, CCSU did not “piggyback” on SCSU’s contract with Chartwells. CCSU negotiated and agreed to different terms, conditions, pricing and scope of services from SCSU’s contract. CCSU’s failure to bid the contract violated statutory and Board of Trustees’s directives, and rendered it illegal.

- When asked to identify any policies or regulations that supported Resnick’s determination that CCSU was not required to engage in competitive bidding for the Chartwells contract, Resnick and other CCSU procurement personnel identified various provisions of the BOT Policies, Connecticut State University System Office (“CSU”) purchasing policies and CCSU purchasing policies. These policies do not support Resnick’s decision. By their terms, these policies allow CCSU to participate in an existing contract executed by another agency in which the vendor has agreed to provide to other agencies or institutions, such as CCSU, the same goods or services on the same terms, conditions and pricing, and these contracts and either (1) approved by the Department of Administrative Services (“DAS”) for this purpose; (2) established by CSU for system-wide purchases of frequently ordered goods and services; or (3) joint contracts with other agencies of the Department of Higher Education. According to DAS, when one agency is permitted to use another agency’s contract to purchase goods and services from the same vendor, the using agency may not change any of the material terms, conditions and pricing. Such purchases generally are made pursuant to cooperative purchasing plans negotiated and/or approved by DAS.
- When asked whether she could identify examples besides the Chartwells contract where CCSU “piggybacked” on contracts executed by other CSU system institutions, Lori Padua, CCSU’s Director of Business Services, stated that “normally, when we’re going to do that, we enter into a joint venture with them.”
- SCSU’s contract with Chartwells, on which Resnick purportedly “piggybacked,” did not obligate Chartwells to provide to any other institution the same services on the same terms and conditions, and the contract’s language does not suggest that the parties anticipated or intended it to serve as the basis for any other institution’s contracting with Chartwells.
- Neither DAS nor CSU negotiated or approved the SCSU contract for use by other agencies or institutions, and it was not a joint contract or venture with any other agency of the Department of Higher Education.
- Resnick negotiated and agreed to a different scope of food services, and different terms, conditions and pricing than those provided in the SCSU contract. As discussed below, some of these terms were oral “side agreements” that Resnick purposefully omitted from the written contract he concluded with Chartwells.
- Our investigation was unable to identify any statutes, policies, procedures or other authority supporting the use of “piggybacking”--as understood and explained by Resnick and others at CCSU-- as a proper basis to avoid competitive bidding requirements. Our investigation confirmed that Resnick’s understanding of “piggybacking” is not recognized, utilized or approved by the Department of Administrative Services, the CSU System Office, or any other authoritative source for state agency procurement. Resnick’s decision not to bid CCSU’s food

services contract violated express provisions of state statutes and the Board of Trustees's Policies.

Resnick's Claim That He Relied on the Advice of a Subordinate Is Disputed

- Resnick testified he had never read BOT Policies § 6.2.2.3.b) that expressly requires CCSU's contracts for personal services to be based on a competitive bidding process.
- Resnick, a non-lawyer, testified he consulted no attorney about the bidding requirements, and relied on advice that the contract did not have to be bid provided by Lori Padua, his subordinate and a non-lawyer. Padua denied under oath that Resnick asked her whether it was proper to "piggyback" on SCSU's food services contract instead of going to bid. She testified that she was not responsible for the decision to "piggyback" on the SCSU contract, and learned from Resnick that he had decided to "piggyback" on the SCSU contract. Padua testified that she never received or reviewed a copy of SCSU's contract with Chartwells prior to July, 2004. Padua, however, did agree with Resnick's understanding of "piggybacking," and his decision that CCSU was not required to engage in competitive bidding for the Chartwells contract.

Resnick Did Not Rely on Advice Provided by an Attorney or the State Auditors

- Resnick wrote to bond counsel for the Connecticut Health and Educational Facilities Authority ("CHEFA") in March, 2002, stating that CCSU was anxious to finalize a long-term contract with Chartwells. Resnick referenced Chartwells's May 24, 2001 offer to agree to long term contract, including for a period of ten years, and expressed CCSU's interest in the 10-year agreement. Resnick further wrote that CCSU had not bid the contract, and "did confer with State Auditors...Because SCSU went through a formal bid process in 2001 and selected Chartwells and because the provisions of this contract on a renewal basis are better than SCSU's, the Auditor's agreed that our decision was defensible." Resnick testified when he wrote the word "defensible," he meant that CCSU's failure to bid the 10-year Chartwells contract was "not illegal."
- Resnick testified that he had no recollection of discussing this matter with the State Auditors, or with whom from the State Auditors he spoke. Resnick stated that if he wrote in 2002 that the State Auditors told him CCSU's decision not to bid the Chartwells contract was defensible, then he assumes that the State Auditors told him so. Resnick believed that if the State Auditors told him this, Walter Felgate is the person who did so. Resnick could not recall discussing with Felgate the issue of whether CCSU was required to bid the Chartwells contract, or what, if anything, Felgate told him.

- Walter Felgate is an Associate Auditor for the Auditors of Public Accounts. He conducted routine audits at CSU institutions, including CCSU, during which he conversed with Resnick. Felgate testified he never told Resnick that the Chartwells contract, or any other contract, did not have to be bid, and never told Resnick that CCSU's decision not to bid the Chartwells contract was defensible, not illegal or otherwise proper. Felgate further testified that his job duties and authority do not allow him to provide advice or opinions on whether a state agency in the process of negotiating a contract is required to competitively bid the contract. Felgate explained that he is not an attorney qualified to provide such advice. He further explained that the Auditors of Public Accounts must remain independent because they could be asked to audit procurement decisions of an agency. For these reasons, Felgate testified, he must and does avoid providing advice or opinions on agency procurement decisions. Felgate testified that he would not provide advice or opinion about whether a state agency in the process of negotiating a contract is required to competitively bid the contract and, if asked by an agency, would tell the agency to consult with its legal counsel.
- Resnick testified that bond counsel never advised him that CCSU was not required to bid the Chartwells contract. Resnick testified that he never sought or received advice on this issue from any attorney. Bond counsel testified he did not inquire of Resnick whether the Chartwells contract had been or would be put to bid, as this issue is irrelevant to evaluating whether bonds issued by CHEFA would qualify for tax exempt treatment under the Internal Revenue Code. He testified he never discussed with or provided advice to Resnick regarding competitive bidding and the Chartwells contract, and never advised Resnick that CCSU was not required to bid the contract.

Resnick Relied on No Valid Precedent

- Resnick stated that when he decided not to bid the Chartwells contract, he was aware of two other CCSU contract situations where contracts were executed without bidding.
- Resnick claimed that CCSU's current contract granting Coca-Cola exclusive "pouring rights" to sell soft drink products on campus is an example where CCSU used a "no-bid" approach similar to that Resnick used with the Chartwells contract. Resnick was not responsible for negotiating the Coca-Cola contract. CCSU executed the Coca-Cola contract in May, 2003, more than a year after Resnick had determined he was not going to bid the food services contract because he would "piggyback" on SCSU's contract with Chartwells. Thus, Resnick could not have relied on, or been informed by this contract when he decided not to bid the food services contract. Moreover, CCSU did not "piggyback" its Coca-Cola contract onto another institution's contract. CCSU treated its May, 2003 Coca-Cola contract as a renewal of a previously existing contract with Coca-Cola that provided Coca-Cola "Rights of First Negotiation and Refusal" regarding any subsequent contract. Unlike its contract that called for

CCSU to pay Chartwells at least \$40 million, the Coca-Cola contract did not require CCSU to pay any money to a vendor. CCSU treated this contract as a “corporate sponsorship agreement” which, by statute, is exempt from competitive bidding requirements.

- Resnick also claimed that a July 11, 2001 routine performance audit issued by the Auditors of Public Accounts regarding CSU institutions’ bookstore contracts, which did not require CCSU to pay any money to a vendor, supported his decision not to bid the Chartwells contract. Resnick explained that CCSU was in the process of negotiating a contract with a vendor to operate a bookstore on campus when the Auditors completed this report, and “they gave it to us to utilize for purposes of negotiating a contract without going out to bid.” Resnick’s claim is contradicted by the evidence. The performance audit states that the Auditors reviewed economy, efficiency and effectiveness issues regarding existing CSU institution bookstore contracts. This audit did not examine any issues related to whether the bookstore contracts complied with applicable laws, including those requiring certain contracts to be the result of competitive bidding. The audit report did note, however, that “[e]ach of the four CSU campuses solicited proposals and awarded a contract independently of the others,” undermining any claim that this audit supported Resnick’s version of “piggybacking” as a valid way to avoid bidding requirements.
- This audit report determined that each CSU institution negotiated different financial terms, even though each used the same vendor. The audit report recommended the CSU System Office should compile comparative data regarding financial arrangements agreed to by each university, and share this information with the member institutions for each to use as a negotiating tool. The audit report did not mention or address bidding requirements, and clearly did not sanction a practice of one institution ignoring competitive bidding requirements because another institution had an existing contract with the vendor. Resnick admitted he never discussed whether CCSU’s bookstore contract was required to go to bid with Walter Felgate, the Associate Auditor who he recalled gave him a copy of this audit report. Resnick conceded that Felgate never told him the bookstore contract was not required to go to bid.
- Felgate testified that performance audits of “fee generating contracts,” like the bookstore contracts, do not address bidding requirements. He further testified that his practice, consistent with standing instructions from his superiors, is not to provide an agency with opinions or advice regarding legal requirements, including complying with bidding requirements. If an agency he audits asks whether a contract should go to bid, Felgate refers the agency to its legal counsel for an answer, and does not provide one himself.

5. BOT Policies expressly required CCSU to execute the Chartwells contract on a Personal Services Agreement (“PSA”) form as prescribed by the Comptroller.

- As discussed above, the CCSU-Chartwells contract was for procurement of personal services, according to the definitions provided in BOT Policy Book § 6.2.2.
 - BOT Policy Book § 6.2.2.4. expressly requires agreements for personal services shall be executed on a PSA form as prescribed by the Comptroller.
- 6. Resnick incorrectly determined and advised his superiors that CCSU properly could execute the contract without executing a PSA and recommended they do so. Judd executed the contract without a PSA.**

- Resnick testified he had never read BOT Policies § 6.2.2.4 that expressly requires CCSU's contracts for personal services to be executed using a PSA form.
- Resnick, a non-lawyer, testified he consulted no attorney about this requirement, and instead relied on Lori Padua, his subordinate and a non-lawyer. Resnick testified Padua advised him that he properly could use a purchase order instead of a PSA for the Chartwells contract, and he accepted her advice.
- Padua testified that Resnick asked her whether the Chartwells contract was best served using a purchase order or PSA. Padua advised him a purchase order would be better suited to this contract. Padua testified that she knew CCSU had executed its 1996-2001 food services contract using a PSA, and that SCSU had executed its contract with Chartwells, on which Resnick was "piggybacking," using a PSA. Padua testified she knew of no instance where any CSU institution had not used a PSA to execute a food services contract. Padua testified that she consulted with no one else about the propriety of using a purchase order instead of a PSA to execute the 2004 Chartwells contract.
- When asked whether using a purchase order is appropriate or proper with a university food services contract, Padua replied that it was a "gray area...it's going to come down to opinion and interpretations." Padua explained that in her opinion the "primary deliverable is food," and that CCSU was purchasing from Chartwells "a tangible commodity," which justified the use of a purchase order.
- Contrary to Padua's claims, CCSU's 2004 contract with Chartwells included no provision by which CCSU agreed to buy any food product or commodity from Chartwells. According to the contract, Chartwells is responsible for "food purchasing." CCSU did not agree to buy food from Chartwells or any one else. Chartwells made all food purchases, and sold no food to CCSU. Under Section 1 of the contract, CCSU granted to Chartwells the exclusive right to operate a contract food service on the campus, and the exclusive right to sell food products on the premises. Thus, CCSU would have had no reason to buy food from Chartwells or anyone else, because it had assigned the exclusive right to sell food on campus to Chartwells.

- Moreover, as discussed above, Resnick’s testimony established that CCSU was not purchasing a food commodity from Chartwells, but a professional service. “We’re providing a food service to students. And to me a food service is more than putting out apples and orange juice and cheeseburgers...And Central I believe has been blessed by outstanding management and a management team, and Chartwells continued to provide some of their top managers here... the management team is key, and professionalism and whether they provide nutritionists and all the other little things that we have got them to do over the years...”
- Richard Bachoo, CCSU’s Chief Administrative Officer and current acting Chief Financial Officer testified that the appropriate procurement vehicle for the Chartwells contract was not a purchase order but a PSA “because it’s a service.”
- Padua’s advice to Resnick was incorrect, based on faulty reasoning, contrary to prior experience, and directly contravened the BOT’s policies. Resnick admitted to Demos that using a purchase order for the Chartwells contract “may be a gray area,” and stated that Counsel to the President “will no doubt recommend against such an approach.” Without consulting a lawyer, CCSU’s Purchasing Manager or anyone besides Padua, Resnick decided to accept his subordinate’s advice and told Demos that using a purchase order “is not illegal.” He presented the contract to Judd for execution without a PSA, and no PSA was ever prepared or executed by CCSU or Chartwells in connection with the 2004 contract.
- Resnick’s decision not to use a PSA caused further illegalities in the contract. When she reviewed Resnick’s draft contract, Counsel to the President Carolyn Magnan inserted in Resnick’s draft certain provisions required for state contracts that were absent from the draft. These provisions required Chartwells to agree that in performing the contract, it would not engage in any prohibited discrimination, would follow certain affirmative action standards, and impose these requirements on any subcontractors and vendors it hired in performing the contract. These provisions further required Chartwells to agree to comply with certain Executive Orders prohibiting discrimination, and allowing the State Labor Commission to cancel, suspend or terminate the agreement if Chartwells violated these Orders. These provisions further required Chartwells to comply with Executive Orders regarding workplace violence policies.
- Resnick removed these provisions from the contract before he presented it to Judd, and did not disclose to Magnan that he had done so. Resnick explained that these provisions were included in CCSU’s purchase order forms, and because he was using a purchase order instead of a PSA, it was not necessary to include them in the written contract. Resnick explained to Demos, “the legalese is overkill.”
- Resnick explained that purchase orders are prepared after the contract has been signed by the parties. Judd signed the contract on June 24, 2004. Chartwells

signed the contract on July 12, 2004. Interim President Aebersold notified Chartwells that the contract was void on July 22, 2004. No purchase order was ever prepared for this contract.

- Thomas Brodeur, CCSU's Purchasing Manager, confirmed that vendors do not sign CCSU's purchase orders. A purchase order is the document by which CCSU authorizes payment to a vendor. The vendor, in this case Chartwells, is not involved in the preparation or execution of a purchase order. By contrast, a PSA form, which Resnick was required to use but did not, is a contract document executed by the vendor. Because Chartwells would not have executed the purchase order even if Resnick had prepared one, Chartwells did not and would not have signed an agreement to be bound by the state law mandated provisions that Magnan inserted and Resnick deleted from the contract. Furthermore, the contract that Judd and Chartwells executed included a section providing that the written contract constituted the entire agreement between the parties, and superseded all other written or oral understandings or agreements. Even if the contract had not been illegal, Resnick's actions seriously jeopardized, and possibly defeated, CCSU's ability to enforce compliance with requirements imposed by law.

7. BOT and CCSU Policies expressly required CCSU to submit its agreement with Chartwells to, and obtain approval of, the Office of the Attorney General prior to Chartwells's performing any services under this agreement.

- As discussed above, the CCSU-Chartwells contract was for procurement of personal services, according to the definitions provided in BOT Policy Book § 6.2.2.
- BOT Policy Book § 6.2.2.6. expressly provides that an agreement for personal services whose total cost exceeds \$3,000 "requires the approval of the AG." This Section requires that the PSA "must be submitted and approved before any services are performed."
- On November 20, 2001, CCSU President Judd issued a directive to certain CCSU personnel, including Resnick and Demos, providing that "[a]ll contracts over \$3,000.00 must be reviewed and approved by the Office of the Attorney General prior to implementation."
- Magnan testified that all contracts exceeding \$3,000 must be presented to the AGO for review. Magnan testified she had advised Padua that Padua could send directly to the AGO contracts using standard procurement forms, such as purchase orders and PSAs, but whenever her department created any manuscript additions to a purchase order or a PSA, including a written contract, she must submit the documents first to Magnan, who would review and then forward them to the AGO.

8. Resnick incorrectly determined and advised his superiors that CCSU was not required to submit its agreement with Chartwells to the AGO for approval.

- Resnick testified he had never read BOT Policies § 6.2.2.6 that expressly requires CCSU to submit its contracts for personal services over \$3,000 to the AGO and obtain approval before any services are performed.
- The evidence includes several e-mails received by Resnick between November, 2003, and June, 2004, by which Magnan and Demos advised and directed Resnick to forward the Chartwells contract through Magnan to the AGO for review and approval. Three months before Judd signed the contract, Resnick e-mailed Judd and Demos that he was “working through some very final issues to finish” the contract. In response, on March 26, 2004, Demos directed: “Frank—all contracts will go through Carolyn...elene” and copied this e-mail to Judd. On April 28, 2004 Demos e-mailed Resnick “re: Chartwells contract: where are you with the chartwells contract? It needs to be reviewed by carolyn magnan-so allow enough time...elene.” When Resnick replied that “we are near final draft,” Demos wrote back “ frank, please review with me prior to the contract moving on...it must move through Carolyn to the attorney general’s office...elene.” Demos copied this e-mail to Magnan.
- Resnick’s e-mail replies to Magnan and Demos did not dispute Magnan’s advice or Demos’ direction that the Chartwells contract must be submitted to the AGO, and provided no indication that Resnick planned not to submit a final version of the contract to Magnan for her review and submission to the AGO. Resnick never informed Magnan that he had decided not to submit the contract to the AGO.
- Resnick had expressed his views of the requirement that he submit his contracts to the AGO for review and approval. In a November 26, 2003 e-mail to Resnick, Magnan provided recommendations for handling certain contract preparation items before she sent the Chartwells contract to the AGO. Magnan further informed Resnick that the Assistant Attorney General responsible for reviewing contracts had commented that he was receiving very few PSAs to approve from CCSU, and had inquired where they were. Magnan asked Resnick to pass along this inquiry to Lori Padua because, Magnan testified, she was concerned that CCSU’s business office was inappropriately using purchase orders instead of PSAs as a way to avoid AGO review. Resnick forwarded Magnan’s e-mail to Padua with the following: “See note to you-more bullshit!”
- Resnick also forwarded to Chartwells’s representative Magnan’s e-mail which explained that the AGO would not approve the contract in a format that included certain attachments. Chartwells’s representative e-mailed Resnick that he would have Chartwells’s attorney contact Magnan to coordinate these issues, to which Resnick replied “the last thing we want is your attorney talking to Carolyn.” Resnick then forwarded this correspondence to Chartwells’s vice-president,

explaining that “this is all frustrating bullshit and will most assuredly take months more.”

- On July 31, 2003, Resnick attended a meeting during which CSU’s Chief Financial Officer discussed requirements for submitting contracts to the AGO for review and approval. Resnick wrote in handwriting next to this agenda item “Stupid!” and “Need memorandum outlining the issues/problems idiocy of these regs.” Resnick testified the threshold amount of \$3,000 to require AGO review was too low, and he had been insisting on raising it for some time. “We don’t even look at checks that are under \$25,000. So to have a contract \$3,000 and have it go through this process is, as I put it, quote, unquote, stupid.”
- When Magnan reviewed Resnick’s draft Chartwells contract in November, 2003, she inserted a section providing that the State of Connecticut shall assume no liability for payment for services under the contract until Chartwells is notified that the contract has been accepted by CCSU and approved by the AGO. She further included a signature line for the AGO’s approval. Resnick removed this provision and the signature line from the contract before it was signed by Judd and Chartwells, and did not disclose this to Magnan.
- Resnick explained in an e-mail to Demos that he removed certain provisions inserted by Magnan because contracts written on purchase orders are not required to be approved by the AGO. He explained that while using a purchase order for the Chartwells contract “may be a gray area, it is not illegal.” Resnick further informed Demos that Magnan “will no doubt recommend against such an approach. If the full blown legal version is pursued, I suspect it will be many unnecessary months traveling through the AG process.” Resnick did not copy Magnan on this e-mail, and Demos did not forward it to her. Demos accepted Resnick’s recommendation. Demos made no inquiries to Magnan or anyone else, even though Demos had previously directed Resnick to submit the contract to the AGO.
- Although Resnick predicted that Magnan “will no doubt recommend against such an approach,” Resnick and Demos never informed her of their decision to disregard her advice that the contract must be submitted to the AGO. Resnick never indicated to Magnan that he was going to use a purchase order and not submit the contract to the AGO. Resnick and Demos ensured that Magnan would not have information that could result in her recommending against Resnick’s approach to Judd. Resnick explained that he and Magnan “didn’t have a very good working relationship. I don’t respect her work.” He stated the reason he did not inform Magnan that he disagreed with her recommendation to submit the contract to the AGO was that Magnan had made this recommendation based on the expectation that the contract would be executed with a PSA. Because he had decided to use a purchase order and not a PSA, Resnick apparently decided that Magnan’s advice was irrelevant. He explained that “I don’t think, and I’m not sure, that she could tell you the difference between the two or why one or the

other could be used.” When asked whether he ever asked Magnan to explain the difference between a purchase order and a PSA, and when it was appropriate to use either, Resnick stated he had not.

- Resnick and Demos failed to disclose to Magnan critical information, including the fact that they had decided to disregard her advice that the contract must be approved by the AGO, and that Resnick had removed from the final draft certain legally required provisions Magnan had included in the contract, because “the legalese is overkill.” They failed to provide her a copy of the version of the contract they planned to and did submit to the President for his execution. The day before the President signed the contract Resnick did, however, highlight to Chartwells the provisions that Magnan had included and Resnick had removed, stating to Chartwells, “they are all legal requirements in her opinion. In conference with the President, it will be my effort to avoid the legalities and process it as a contract under cover of a purchase order.”
- Resnick denied that he used a purchase order to avoid the AGO conducting a review of his contract. Resnick testified he used a purchase order instead of a PSA in order to expedite matters. He explained that AGO review and approval was required for PSAs but not for purchase orders. He stated he could expedite finalizing the contract by using a purchase order, thus eliminating the period of several months he anticipated would be required for AGO review if he used a PSA. He viewed submitting the contract to the AGO “as delaying the process.” Resnick was unable to identify any way that using a purchase order would expedite the process of contract approval, besides avoiding AGO review.
- Resnick’s conduct does not support his claim that his purpose in using a purchase order was to expedite conclusion of the contract, and not to avoid AGO review of his contract. By his own admission, Resnick “procrastinated” until 2004 completing a contract with Chartwells to replace one that had expired in 2001, and which he had decided no later than March, 2002, would not go out to bid. “[W]ere it not for President Judd’s directive of sorts [that Judd wanted a contract completed before he retired on June 30], I probably still would be procrastinating with the contract.” He did not complete the contract and submit it for AGO review in November, 2003, when he received Magnan’s revisions and another reminder the contract must go to the AGO. Indeed, Resnick did not present the contract to Judd for execution for another six months, more than enough time to allow for AGO review. By avoiding AGO review, Resnick eliminated the possibility that the AGO would learn a \$40 million, 10-year contract had not gone to bid and refuse to approve it. By not sending the contract to Magnan to forward to the AGO for review, Resnick reduced the possibility that Magnan would learn that he and Demos planned to present the contract to the President for his signature, in which case she might have communicated directly to Judd that he should not sign the contract because it had not gone to bid and because Resnick had removed legally required provisions she had inserted into a prior draft.

9. Resnick negotiated two specific financial provisions that required Chartwells to make payments to CCSU and improperly agreed to omit these from the written contract.

- Resnick testified he negotiated, and Chartwells agreed to provisions obligating Chartwells to make financial payments to CCSU that were not included in CCSU's 1996-2001 food services contract. These included an "expendable replacement" provision, pursuant to which Chartwells agreed to include in its budget and pay to CCSU the cost of damaged items such as broken dishes or missing silverware. Another provision was a "profit-sharing" arrangement. Resnick testified that this provided CCSU a "profit split after 2%" pursuant to which Chartwells paid CCSU \$27,852 in fiscal year 2002-2003. Resnick believed these agreements were part of the 10-year contract Judd executed in 2004. Resnick improperly failed to memorialize these provisions.
- Both the 1996-2001 contract and the 2004 contract provided that the written contract constituted the entire agreement between the parties, and superseded all other written or oral understandings or agreements, and that no other terms and conditions shall be effective or binding unless expressly agreed to in writing. Resnick's decision not to include these oral "side agreements" in the written contracts rendered them unenforceable, even if they were to be deemed advisable or appropriate.
- Resnick testified that he agreed to Chartwells's request that these provisions be omitted from the written contract so that other universities doing business with Chartwells, some of which were CSU institutions, would not learn of them and ask Chartwells to make the same payments available to them.
- Resnick acted without any legal authority to agree with the vendor to omit from the written contract provisions obligating the vendor to make payments to CCSU.
- Resnick did not seek advice from any attorney as to the legality or wisdom of agreeing to omit these provisions from the written contract. To the contrary, Resnick submitted for review to Counsel to the President a draft contract reciting that all terms and conditions were included in the written contract when, in fact, this was not true. He failed to disclose to Counsel the existence or content of these oral "side agreements," and that he had agreed to Chartwells's request to omit these provisions from the written contract.
- The Connecticut Health and Educational Facilities Authority ("CHEFA") issued bonds to finance the construction and renovation of university facilities, such as CCSU's Student Center and Memorial Hall. When Internal Revenue Service requirements are met, the interest on these bonds is tax exempt. Prior to issuing these bonds, CHEFA's bond counsel was required to determine that the IRS requirements were met. Between 2002 and February 18, 2004, Resnick signed at least three certifications for bond counsel attesting that the food service contract

met certain requirements. Resnick certified that he understood that bond counsel would rely on his certification in providing an opinion with respect to the tax exemption of the bonds, and agreed to report in writing to the Chancellor's office any proposed changes in the information he was providing.

- Resnick certified that the information he provided was true, accurate and complete. This information included the representation that compensation for the food services provider is not based, in whole or in part, on a share of net profits from the operation of any part of a facility financed by CHEFA bonds. Resnick failed to disclose his oral "side agreements," including his profit-sharing arrangement, to bond counsel or to the Chancellor's office.
- Resnick further represented in his certifications signed in 2002-2004 that the compensation under the food services contract "was based on competitive bids," when, in fact, after the 1996-2001 contract expired, Chartwells's provision of food services was based on "extensions" of questionable legality.
- Resnick further represented that upon expiration of the existing food services contract or any future contract, any new contract would conform to certain requirements, including that compensation for the food services provider is not based, in whole or in part, on a share of net profits from the operation of any part of a facility financed by CHEFA bonds. Resnick testified that CCSU's 2004 agreement with Chartwells included compensation based on a profit-sharing arrangement, and Resnick failed to disclose this information to bond counsel or the Chancellor's office.
- As a result of information developed by our investigation, bond counsel is reviewing the facts to determine the possible consequences of Resnick's conduct in this regard.

10. The evidence surrounding Judd's decision to execute the Chartwells contract suggests that the most significant conduct appears to have been Resnick's and Demos's failure to accurately inform Judd in response to his direct questions to them.

Resnick's and Demos's Conduct

- Judd announced in the spring of 2004 his plan to retire on July 1. In late March or April, he conducted meetings with various subordinates, including Demos, Resnick and Magnan, during which he expressed his desire to conclude certain pending matters before he left office. A long-term food services contract was identified as one such matter. Judd executed a 10-year contract with Chartwells on June 24, 2004.

- Under Judd’s administrative organization, Resnick reported directly to Demos, who reported directly to Judd. Magnan reported directly to Judd, and did not report to Demos or Resnick. Judd had issued a directive dated November 1, 2001, to certain CCSU personnel, including Demos and Resnick, ordering that they submit contracts and agreements that yield revenue or other forms of compensation for CCSU to Counsel to the President for review before he signed them. Judd further directed that all contracts over \$3,000 “must be reviewed and approved by the office of the Attorney General prior to implementation.” Under this directive, Resnick and Demos had responsibility to see that contracts were forwarded to Counsel for review. As a result of the President’s directive, Resnick, Demos and Magnan were required to work with each other on the Chartwells contract, and Magnan provided advice to Resnick and Demos. Judd testified he expected them to communicate with one another and work together.
- Testimony and e-mails show that Resnick sent Magnan for review a draft of the Chartwells contract on October 24, 2003. By e-mails sent on November 6, 11, and 26, 2003, Magnan provided edits, inserted additional provisions into the contract, and gave direction and advice regarding requirements that should be met in order to achieve AGO approval. Documents and Resnick’s testimony establish that well before he sent the contract to Magnan for review, Resnick had decided that the contract would not go out to bid. When he sent the contract to Magnan for review, however, Resnick did not inform her the contract was not the result of competitive bidding. Magnan testified that when she reviewed this draft, she assumed the contract had gone to bid, and the draft reflected negotiations between Resnick and Chartwells around contract language and the final agreement. After he received Magnan’s comments and edits on November 6, 11, and 26, 2003, Resnick sent Magnan no further drafts of the contract to review and did not send her a final draft for submission to the AGO.
- Magnan testified that in early May, 2004, Demos requested a confidential meeting to receive legal advice. Demos informed Magnan the Chartwells contract had not gone to bid, and asked if this was a problem. Magnan testified she told Demos, “Definitely. It needs to be put out to bid,” at which point Demos left her office. Demos testified that she did not recall this conversation, but conceded that it could have occurred.
- Richard Bachoo, CCSU’s Chief Administrative Officer, recalled that he had learned the food services contract had not gone to bid when he made inquiries of Lori Padua and Kim Chagnon, CCSU’s Director of Budget and Accounting. Bachoo recalled that Padua explained that CCSU was “piggybacking” on the SCSU Chartwells contract. Chagnon’s recollection of the conversation that occurred during this meeting is consistent with Bachoo’s. Bachoo recalled that this meeting with Padua and Chagnon, both of whom report directly to Resnick, occurred in late May or early June, 2004.

- Magnan testified that on June 21, 2004, Bachoo told her that Resnick was “trying to push through the Chartwells contract.” Magnan explained that the contract could not be pushed through because the previous month she had advised Demos that CCSU could not sign the contract without first going to bid. Bachoo recalled discussing the food service contract during three conversations with Magnan in 2004. He stated the first conversation occurred before Judd signed the Chartwells contract in June. Bachoo believes that Magnan said during this first meeting the contract needed to go to bid, and that “she said she had some e-mail communication with Resnick or Demos or something like that.” Bachoo further recalled that during one of these meetings, Magnan told him she had discussed with Demos the fact that the contract had not gone to bid. Bachoo denied, however, telling Magnan that Resnick was trying to “push through,” or pressure others to push through the contract. Bachoo stated he never had any conversation with Resnick about the contract and, therefore, could not have known Resnick’s plans for the contract.
- The following day, June 22, two days before the President signed the contract, Magnan e-mailed Demos, copied to Judd and not to Resnick, “checking on the status” of the contract, explaining that “it has not come across my desk since November, 2003.” She reminded Demos that in April, 2004, she had e-mailed Demos and Resnick about certain items, including gift affidavits, that needed to be completed before she could send the contract to the AGO, and explained changes to certain gift affidavit requirements that took effect June 1, 2004. Demos then e-mailed Resnick and Magnan, copied to Judd, asking Resnick if “we are in compliance with this...why hasn’t this been to Carolyn [Magnan] since Nov.? I assumed everything was on track. This leads me to believe something different...bring Dick [Judd] and I up to date ASAP...I want this clean as a whistle.” Judd replied to Resnick and Demos, but did not copy Magnan, “what the hell goes here? Another smokestack. I am very disappointed but not surprised. Enjoy the next administration.” Resnick replied to Judd, copied to Demos but not Magnan, that “I spoke with you about the Chartwells contract last week at lunch and promised you’d have it, and you will.”
- The following morning, June 23, Judd replied to Resnick, copied to Demos but not to Magnan, that “IF the comments of Magnan are valid, then there will not be time during my admin. to execute it. [Interim President] Aebersold should not have to deal with it, that’s all. I asked you and Elene [Demos] if due diligence was done several weeks ago.”
- Resnick then e-mailed Demos explaining that Magnan “has seen nothing since November because we send her as little as possible.” He went on to say, “Carolyn is many people’s frustration and worst nightmare. I have no issue with her knowledge or expertise but rather how it is used. I can read the statutes and follow the rules and regulations; I don’t need an attorney to lecture me.....What CCSU needs from an attorney is her expertise on how to legally get around rules

or issues that hinder our business and as such ultimately often prevent us from moving ahead.....” Resnick did not copy this e-mail to Magnan or Judd.

- Before sending this e-mail to Demos, Resnick sent it to two subordinates, Lori Padua and Kim Chagnon with the following: “SEE MESSAGE BELOW. May I send it? Carolyn is a fucking asshole for sending the message she did, which is what especially makes me want to send it. And, of course, Elene’s forwarding message not much better. I know you are both angry/frustrated with me over the same contractual matter, but that is no longer the issue. At this point, I feel like I have nothing to lose. If they want to fire me over her ineptitude, they [sic] CCSU deserves her!! Please DELETE and see me; no need to respond in writing.”
- Later that day, Resnick e-mailed Magnan to confirm that he had her latest revisions to the draft contract because he wanted “to make sure it is the current version ready for final blessings.” Magnan located and e-mailed to Resnick her revised draft from the prior November, and reminded Resnick of new gift affidavit requirements implemented since November. Magnan previously had advised Resnick the gift affidavit requirements must be completed before she could submit the contract to the AGO. Resnick never told Magnan he was planning to present the contract to Judd for his signature. He did not inform Magnan that he had deleted from the contract he intended to present to Judd provisions she had inserted into the draft six months ago. He did not inform her he intended to use a purchase order instead of a PSA and not to submit the contract to the AGO.
- Resnick did, however, notify Chartwells’s representative with whom he negotiated the contract of his plans. Resnick had told Chartwells he planned to “piggyback” on Chartwells’s contract with SCSU. On June 23, he sent two e-mails: “Here’s the contract reviewed by University Counsel. You have actually reviewed it previously. The yellow highlights were her changes from your final document. They are all legal requirements in her opinion. In conference with the President, it will be my effort to avoid the legalities and process it as a contract under cover of a purchase order. Please review with Greg [Coady, Chartwells’s Vice-President] as to content and give go so that we can proceed.” Resnick’s second e-mail stated: “Per previous message, this is the version I desire to have signed. As you will see there are only minor revisions from the Magnan document, except to eliminate some attachments and reletter the remaining ones. Additionally, there are but a few additions (noted in blue for your review) which again are not substantive in nature. Please review with Greg as well and give your blessing to it so that we can have both versions available for use if we need. Thanks.”
- Later that same day, Resnick e-mailed Demos, and did not copy Judd or Magnan, that he was including two drafts of the final agreement: a copy of Magnan’s revised draft from the previous November, and his recommended final version from which he had deleted certain provisions Magnan had inserted. Resnick told

Demos he deleted these provisions because the “legalese is overkill.” Resnick used a word processing function that identified for Demos those changes he made to Magnan’s draft, including the provisions he had deleted. He explained in his cover e-mail to Demos his decision to use a purchase order, and acknowledged that this “methodology may be a gray area” and “Carolyn [Magnan] will no doubt recommend against such an approach. If the full blown legal version is pursued, I suspect it will be many unnecessary months traveling through the AG process. I have never steered the President or you wrong on a contract, purchase order, or any other document in all of the years I have worked here...I will not deny that due diligence is important, but Carolyn’s definition of due diligence is the issue and in many cases, the interests of best managing the business of the University has been hampered by her. The decision is, however, yours and the President’s. I am prepared to meet with you to discuss any of the aspects of my presentation.”

- Resnick, a non-lawyer who, by his own testimony, consulted no lawyer about the propriety of using a purchase order and not submitting the contract to the AGO, rejected the advice of Counsel to the President and assured Demos his recommended approach “is not illegal.” Demos accepted this advice, and did not seek to confirm it with Magnan or any one else. On the morning of June 24, Demos e-mailed Resnick, thanking him for moving ahead on the contract, and instructing him to send a clean copy of the contract to Judd for his review, and to schedule a meeting with Judd. Demos did not copy her e-mail to Magnan. Resnick followed Demos’s instructions.
- Judd responded by asking to meet with Resnick and Demos, and asked Resnick “has due diligence occurred in respect to the contract?” Resnick replied “I believe that due diligence has been followed.” Judd and Resnick did not copy these e-mails to Magnan.
- Resnick and Demos then attended a meeting with Judd on June 24, 2004, during which Judd signed the Chartwells contract. Prior to noon that day, Resnick e-mailed Chartwells: “I am please [sic] to report that the CCSU Chartwell’s Agreement is complete and signed by President Judd. Two copies are available for signing by [Chartwells’s President] Mark Simkiss. I thank you for your assistance, cooperation, and patience throughout the process. CCSU looks forward to a continuing beneficial partnership with you and Chartwells over the next 10 years.” Resnick copied Judd and Demos. None of them informed Magnan that Judd had signed the contract.
- Judd and Demos testified that during his meeting with Demos and Resnick before he signed the contract, Judd asked them whether the contract had gone to bid. Judd and Demos testified that Resnick stated it had not, and explained that because he was “piggybacking” on SCSU’s contract with Chartwells, CCSU’s contract was not required to result from competitive bidding. Demos did not respond to this question from Judd or Resnick’s explanation. Resnick testified, however, that Judd had “absolutely not” asked if the contract had gone to bid. He

denied having explained to Judd that he was “piggybacking” on the SCSU contract.

- Demos testified that she had developed the belief that the food services contract must result from competitive bidding independent of any conversation she might have had with Magnan about the issue, which she could not recall. Demos testified she had sent an e-mail to Judd advising him that the contract must go to bid. Judd had no recollection of receiving such an e-mail from Demos. To date, a search of CCSU’s records has not located this e-mail. Demos testified she had believed the contract must go to bid, and asked Resnick about this in 2003. Resnick testified, however, that he never had any discussion with Demos about whether CCSU was required to put the contract to bid. Demos stated she was persuaded by Resnick’s explanation at the time of “piggybacking,” and never reviewed Resnick’s “piggybacking” analysis with an attorney, including Magnan, or with any other purchasing personnel at CCSU or the CSU system. Demos stated that during the meeting at which Judd signed the contract, she did not reference her prior e-mail to Judd stating the contract must go to bid, and Judd did not ask her about it. Demos testified she said nothing when Resnick stated to Judd that CCSU was not required to bid the contract.
- Testimony established that when Resnick and Demos met with Judd and recommended he sign the contract, Judd asked them whether Magnan had reviewed the contract. Resnick replied in the affirmative, but did not disclose to Judd that Magnan had not reviewed the version he was presenting to the President for execution. Resnick did not disclose to Judd that he had removed certain provisions Magnan had inserted into the draft she had reviewed, including a signature block for the AGO to signify its approval. Resnick did not disclose to Judd that he had decided not to follow Magnan’s advice and Demos’s prior instructions that the contract be submitted for approval to the AGO. He did not tell Judd that he had not informed Magnan that he had decided not to follow her advice. Demos testified she remained silent. During her testimony, Demos conceded that Resnick was not totally forthcoming with Judd. When asked whether she made any attempt to set the President straight Demos replied, “No. I wish I had.” Demos explained that she did not say anything because Judd and Resnick were determined to execute the contract regardless of anything she might have said, stating “it could have been God sitting between the two, that contract would have been executed.” She further testified that she believed the contract would be submitted to the AGO after Judd executed it, and any problems would be corrected at that time. Demos agreed, however, that she had received Resnick’s e-mail in which he explained that Magnan “will no doubt recommend against such an approach [using a purchase order instead of a PSA]. If the full blown legal version is pursued, I suspect it will be many unnecessary months traveling through the AG process.”
- Resnick agreed that in response to Judd’s inquiry whether Magnan had reviewed the contract, he replied in the affirmative, and did not disclose that he had

removed specific provisions Magnan had inserted into the draft when she reviewed it. He agreed he did not disclose to the President that he had removed a signature block that Magnan had inserted where the AGO would signify its approval. Resnick agreed he did not disclose to Judd that he was using a purchase order instead of PSA. Resnick admitted that the President probably would not know the difference between a PSA and a purchase order unless he drew the President's attention to the issue, which he did not. Judd testified that when he signed it, he did not know the contract would not be submitted to the AGO.

- Resnick stated he assumed the President had received and reviewed his previous day's e-mail to Demos explaining that using a purchase order was "gray area" but "not illegal," and attaching the two drafts of the contract identifying those specific provisions included by Magnan that Resnick had deleted. Resnick admitted, however, that during the meeting he observed only that the President had some papers in his hand. Resnick testified he never saw these papers and does not know what they were. Resnick testified that the President asked no question or said anything that indicated he had received and reviewed this e-mail or the two draft documents. Resnick conceded that his e-mail to Judd stating "attached is the Chartwells contract that I submit to you for your review and signature" attached only the version Judd signed, and did not include Magnan's edited draft or Resnick's version identifying Magnan's provisions he had deleted.
- When shown these two versions of the draft contract, and Resnick's cover e-mail to Demos, Judd testified he had never seen them. "The only document I reviewed was what I signed." Judd further testified that Resnick never explained to him that the use of a purchase order was a gray area. Judd testified that Resnick never explained that he and Magnan had a difference of opinion regarding the proper procurement documents that should be used to execute the contract, that Resnick had removed from the document he presented for Judd's signature certain provisions included by his Counsel, or that Resnick was not going to submit the contract to the AGO, as Magnan advised was necessary.
- Judd testified that had Resnick or Demos provided this information, or told him they disagreed with Magnan's recommendations, he would have pursued additional inquiries before agreeing to sign the contract. Judd further testified that ordinarily he expected Resnick and Demos to follow Magnan's advice and to inform him if they chose not to follow her advice. Judd testified that if Resnick or Demos told him they were not going to follow one of Magnan's recommendations, he believes he would have asked Magnan about the matter.

Magnan's Conduct

- Magnan was part of the President's six-member executive committee that met with Judd on a weekly basis. Judd testified that Magnan was included in meetings he called in late March or April, 2004, during which he communicated that completing the Chartwells contract before he left office at the end of June

was important to him. Magnan agreed she attended executive committee meetings, but stated nothing was expressed during these meetings indicating to her that Judd, Resnick or Demos were attempting to conclude the Chartwells contract before Judd left office. According to Magnan, she first learned this on June 21, when Bachoo told her that Resnick was trying to “push through” the contract.

- Magnan explained that in the weeks after she advised Demos in early May that the contract must go out to bid, she did not communicate this advice to Judd. Judd agreed that Magnan did not advise him that the Chartwells contract must go to competitive bid and did not advise him not to sign it. Magnan testified that because Demos reported directly to Judd, Magnan assumed Demos would communicate this information to Judd. Judd testified that in the normal course of events, Magnan would be justified in assuming that Demos would communicate this information to him. Further, both Magnan and Demos had advised Resnick by e-mail that the contract must be submitted through Magnan to the AGO for review and approval before it was signed. During the weeks after her meeting with Demos in early May, 2004, Resnick had not submitted a final draft to Magnan for this purpose, and never informed her that he had decided not to submit the contract to the AGO. Magnan did not know that Demos and Resnick planned to present the contract to Judd for execution. Magnan testified that she did not see a need to communicate directly to Judd the advice she provided to Demos prior to June 21, when Bachoo told her Resnick was trying to “push through” the contract.
- Magnan believed that the contract could not have not gone to bid because there had been insufficient time to do so between her conversation with Demos in early May and June 21 when, according to Magnan, Bachoo informed her that Resnick was trying to “push through” the contract. Magnan testified that after her conversation with Bachoo, she decided to attempt to stop any effort by Resnick to have Judd execute a contract she believed had not gone to bid. Magnan, however, did not tell the President that the Chartwells contract must go to bid, that she believed it had not, and he should not sign it.
- Instead, Magnan e-mailed Demos, copied to Judd, “checking on the status” of the contract, explaining that “it has not come across my desk since November, 2003.” She reminded Demos that in April, 2004, she had e-mailed Demos and Resnick about certain items, including gift affidavits, that needed to be completed before she could send the contract to the AGO, and explained changes to the gift affidavit requirements that took effect June 1, 2004. “The first affidavit must cover a two year period prior to submission of the bid or proposal and the second affidavit is to cover the period of time in between the submission of the bid and the actual awarding of the contract.” Magnan concluded her e-mail “this is a much less onerous requirement than the policy passed by the AG last January but may still present some problems for us as you and I have discussed. Let’s discuss further.” Magnan testified that by highlighting to Demos and Judd specific

requirements that needed to be completed before she could submit the contract to the AGO for review and approval, which she knew had not been met, she would render unsuccessful any attempt by Resnick to have Judd sign the contract. Magnan further believed that by explaining to Demos and Judd that one affidavit must cover a period “prior to submission of the bid or proposal” and the other must cover the time “between the submission of the bid and the actual awarding of the contract,” she had put Demos and Judd on notice the contract must go to bid, which she knew had not happened.

- Magnan explained that her statement to Demos that the new requirements “may still present some problems for us as you and I have discussed” was a reference to Magnan’s advice to Demos in May that the contract must be bid, by which she meant to communicate that it would be impossible to obtain an affidavit covering periods of time before and after submission of a bid proposal when CCSU had solicited and received no bid proposals.
- When asked why she did not directly state in her e-mails copied to Judd that he should not sign the contract because it had not gone to bid, Magnan stated, “I didn’t think Elene [Demos] wanted anything in e-mail about the bid issue, so I was trying to get her to come and talk to me so that I could remind her that it was an illegal contract and couldn’t go forward. She did not come and speak to me.” According to Magnan, because in early May Demos did not use e-mail, as was her customary practice, but instead sought a closed-door meeting and asked for privileged legal advice, Magnan believed Demos wanted her to avoid committing to writing Magnan’s advice that the contract must be bid. Magnan believed it was proper for her to defer to Demos in this regard. When Demos did not speak to Magnan in response to this e-mail, however, Magnan did not initiate any conversation with Demos, or otherwise “remind her that it was an illegal contract and couldn’t go forward.”
- When Demos sent Magnan’s June 22 e-mail “checking on the status” of the contract to Resnick an hour after receiving it, copied to Magnan and Judd, and asking Resnick “are we in compliance with this...why hasn’t this been to Carolyn [Magnan] since Nov.?,” Magnan believed she had succeeded in her effort to stop Resnick from obtaining Judd’s execution of the Chartwells contract.
- Magnan testified that after her June 22 e-mail, she had “plenty of discussions” with Judd on other issues, but none on the Chartwells contract. Because she had communicated to Judd by e-mail on June 22 that CCSU was required to obtain certain gift affidavits which she knew could not be obtained, and further knew that the contract had not been submitted to the AGO, Magnan “knew I was communicating to him, I thought very clearly, that this contract could not legally be signed. And I thought that was sufficient.” Because Judd never asked Magnan any questions about the contract and no one informed her that Judd had signed the contract, “I thought I had been successful in stopping Frank’s attempt to push it through.”

- It cannot be known with certainty how Judd would have resolved the difference of opinion between Magnan and Resnick had Magnan directly communicated to Judd her advice that CCSU was required to engage in competitive bidding for the food services contract. The evidence shows, however, that before signing the contract Judd specifically asked Resnick and Demos whether the contract had gone to bid. Judd testified that had he known that Resnick and Magnan disagreed over certain issues, he would have made additional inquiries before agreeing to sign the contract.

Judd's Conduct

- Judd testified that he asked to sign the Chartwells contract personally, and was aware generally that he had potential personal liability regarding contracts he signed. Although he wrote to Resnick and Demos "IF the comments of Magnan are valid, then there will not be time during my admin. to execute" the Chartwells contract, Judd did not include Magnan in his e-mail exchanges with Demos and Resnick. He did not make any inquiries to his Counsel or inform her that Resnick and Demos were prepared to submit the contract to him for execution. When he told Resnick and Demos he wanted to meet with them to review the contract, Judd did not notify Magnan of or ask her to attend this meeting. Demos and Resnick did not notify Magnan they were meeting with the President to present the contract for his signature. Judd did not notify his Counsel after the fact that he had signed the contract. Magnan testified she did not know this meeting was planned, and did not learn Judd had executed the Chartwells contract until after he had retired. When asked why Magnan had not been asked to attend his meeting with Resnick and Demos when he signed the contract, Judd said he does not know.
- Judd thought it sufficiently important to ask Resnick and Demos whether Magnan had reviewed the contract, yet he failed to ask this question of Magnan. Judd specifically asked Resnick and Demos whether the contract was required to go to competitive bidding, yet he relied entirely on Resnick's representations that CCSU did not need to engage in a competitive bidding process. He did not ask his lawyer. Judd testified he did not seek to confirm Resnick's "piggybacking" rationale with anyone else, including his Counsel, who he required to review the contract.
- Judd testified that although he expected Magnan, Resnick and Demos to work together on the Chartwells contract he did not know that, according to Resnick, "Carolyn [Magnan] has seen nothing since November because we send her as little as possible." Judd testified he not aware of Resnick's attitude toward his legal counsel as expressed in an e-mail to Demos: "I can read the statutes and follow the rules and regulations; I don't need an attorney to lecture me...What CCSU needs from our attorney is her expertise on how to legally get around rules or issues that hinder our business and as such ultimately often prevent us from

moving ahead. That is the value she can provide, but somehow she hasn't seen it." Judd stated he did not know that Resnick's opinion of Magnan, who reported directly to Judd, was that "she is many people's frustration and worst nightmare" and "has been of no value to this office." Judd testified neither Resnick nor Demos expressed to him Resnick's frustrations with Magnan. "I didn't know there was a struggle going on. I still don't know there was."

- When asked whether he had received the type of information and reporting he expected from Resnick and Demos during the meeting when he signed the Chartwells contract, Judd answered "no, but I don't think they would consciously mislead me either." Judd agreed that "I should have seen" Resnick's communication to Demos in which he explained his decision to use a purchase order even though this "methodology may be a gray area" and "Carolyn [Magnan] will no doubt recommend against such an approach." Judd testified that had Resnick or Demos provided this information, or told him they disagreed with recommendations of his Counsel, he would have pursued additional inquiries before agreeing to sign the contract.
- The evidence shows that Judd had clear opportunities to avoid signing the illegal contract. He structured his administration so that Magnan reported directly to him. He required Magnan's review of the 10-year, \$40 million contract before he signed it. He received Magnan's e-mail two days before he signed the contract stating that nothing regarding the contract had come across her desk for six months. Judd concluded that "IF the comments of Magnan are valid, then there will not be time during my admin. to execute it." Yet Judd chose not to follow up with Magnan to understand her comments or to determine whether they were, in fact, valid. Judd did not inform Magnan that Resnick had presented the contract to him for his signature. He did not ask Magnan to confirm that she had reviewed the contract and approved it. He required nothing in writing from Magnan indicating that she had reviewed and approved the contract. Instead, he asked Resnick, and Demos, to whom Magnan did not report, whether his own Counsel had done her job. Unaware that, according to Resnick, he "hadn't copied her on any correspondence in the last six months or more...she was out of the process," Judd relied on two non-lawyers to interpret and communicate his own attorney's advice and recommendations. By choosing this management technique to ensure compliance with his own established requirements that Counsel review the contract, Judd created the opportunity for Resnick and Demos to inaccurately respond to his direct questions.
- The evidence strongly suggests that had Judd communicated directly with his Counsel at the time he signed the contract, he would have learned there existed serious issues about the legality of the contract, and she probably would have advised him not to sign it. All he had to do was ask the right person.

The most significant conduct appears to have been Resnick's and Demos's failure to accurately inform Judd in response to his direct questions to them.

- The evidence shows that Resnick purposefully circumvented Magnan, whose work he did not respect, who he believed had been of no value to his office, and who he characterized in expletives and as “many people’s frustration and worst nightmare” in e-mails to colleagues. Resnick sent her to review “as little as possible.” He ignored her advice that the contract must be reviewed by the AGO and he deleted legally required provisions she had included in the draft contract because “the legalese is overkill.” He concealed these actions from Magnan and never presented for her review the version of the contract he presented to Judd for his execution. When Resnick and Demos presented the contract for his signature, Judd asked them if Magnan had reviewed it. Resnick answered “yes” but did not disclose any of this information to Judd. Resnick failed to accurately inform Judd in response to his direct question. Demos remained silent.
- Judd testified that had Resnick or Demos provided this information, or told him they disagreed with recommendations of his Counsel, he would have pursued additional inquiries before agreeing to sign the contract. The evidence indicates that Resnick’s and Demos’s failure to accurately inform Judd in response to his direct questions to them was the most significant conduct contributing to Judd’s execution of the illegal contract.

11. Resnick appears to have accepted gifts from Chartwells in violation of the Code of Ethics, CSU and CCSU policies and procedures.

- According to Resnick’s testimony, he accepted golf outings paid for by CCSU vendors approximately 14-18 times over the past two golf seasons, most of which involved playing in a group of four players that Chartwells entered in charity fundraising tournaments. Chartwells or its parent company paid Resnick’s entry fees and Resnick did not reimburse Chartwells or its parent company for the entry fees. Resnick generally played with Chartwells’s employee who negotiated the 10-year contract on behalf of Chartwells, this employee’s supervisor and the CFO at a private Connecticut university. Resnick stated he did not know the amounts Chartwells paid for his entry fees, but “they’re probably a primary sponsor, so maybe they paid \$5,000 [to enter the group of four players]. I have no idea.” Resnick further testified he played golf at a private club in a non-charity event where Chartwells paid his fees, and at the time Resnick had an understanding with Chartwells that he would reimburse the company for his fees. More than one month after this round of golf, however, Resnick had not made reimbursement.
- The Code of Ethics, Conn. Gen. Stat. § 1-84(m)(1) and (2), provides that, “no public official or state employee shall knowingly accept . . . any gift . . . from any person the official or employee knows or has reason to know: (1) is doing business with or seeking to do business with the department or agency in which the official or employee is employed or (2) is engaged in activities which are directly regulated by such department or agency. No person shall knowingly

give, directly or indirectly, any gift or gifts in violation of this provision.” The Code of Ethics and implementing regulations, Conn. Gen. Stat. § 1-79 (e) and Regulations of Conn. State Agencies Sec. 1-92-54 (c), further provide that a public official or state employee has accepted a gift where the employee directly and personally receives something of value, and does not pay consideration of equal or greater value in return within thirty days of receiving it.

- Resnick claimed that because most of the golf outings where Chartwells paid his entry fees were charitable fundraising tournaments, he properly could accept Chartwells’s payments under Conn. Gen. Stat. § 1-79 (e) (14), which exempts from the definition of prohibited gifts admission to a charitable event at which the state employee participates in his official capacity, and admission is provided by the primary sponsoring agency.
- Resnick testified that he viewed these golf outings as serving a business purpose, because he talked business on the golf course, made contacts and cultivated donors. Resnick used his personal vacation time and did not use paid work time to play in tournaments that occurred during official work hours. He testified that his supervisors did not ask him to play golf in these events where Chartwells paid the entry fees. Judd testified that he did know whether Resnick ever played golf in tournaments in which Chartwells paid the entry fees. Judd testified that he never asked Resnick to participate in golf tournaments with employees of Chartwells or that were paid for or sponsored by Chartwells. CCSU’s official job description for the Chief Financial Officer includes no duties or responsibilities that reasonably could be interpreted to require Resnick to play golf in these tournaments at Chartwells’s expense, or to engage in conduct that violates the Code of Ethics. The facts do not support a conclusion that Resnick participated in these golf tournaments in his official capacity.
- Moreover, a plain reading of Conn. Gen. Stat. § 1-79 (e) (14) and Advisory Opinions of the Ethics Commission make clear that unless Chartwells was the primary sponsor of the charity golf tournaments, Resnick could not accept entry fees paid by Chartwells. Resnick testified that the charity golf tournaments were sponsored primarily by universities or other entities with whom Chartwells did business, and not by Chartwells. Chartwells contributed to these charitable fund raising events by entering groups of players and paying their expenses. Thus, Chartwells was not the primary sponsor of these tournaments. Chartwells, not the primary sponsor of the tournaments, paid Resnick’s entry fees. The facts do not support a conclusion that the primary sponsor of these charity golf tournaments paid Resnick’s entry fees.
- The Code of Ethics appears to view Chartwells’s payments of Resnick’s entry fees as impermissible gifts to a state employee provided by a company that does and seeks to do business with his agency. An investigation into these matters is pending before the state Ethics Commission.

- CSU Human Resources Policies, Section 3.9 provides: “All state officials and employees, including Management and Confidential Professional employees of the CSU System must comply with the Code of Ethics. The ethical rules are contained in Connecticut General Statutes §1-84 through 1-86. These sections are intended to prevent one from using their public position or authority for personal financial benefit.”
- CCSU and CSU System Ethics Statement, published in “Guide to Employment Related University Policies, Central Connecticut State University” and on CCSU’s Personnel Department Website provide: “Prohibited actions include... (2) Do not either as an individual or member of a group, directly or indirectly, accept or solicit any gift or gratuity from any person or organization which has currently, has had previously, or is expected to have a business relationship with your work unit...(10) Do not accept any gift or gifts which amount to \$50 or more in any calendar year from any person who (1) is doing business with or seeking to do business with your department or campus, (2) is engaged in activities which are directly regulated by your department or campus or (3) has financial interests which may be substantially affected by the performance or nonperformance of your official duties.”
- CCSU’s Purchasing Policies, Part VI – Statutory Regulations, Section B provides: “Code of Ethics. CCSU employees are to maintain an “arms-length” relationship with vendors and to decline offers of gifts and gratuities.”
- **12. Interviews with various CCSU employees revealed some employees responsible for procurement share Resnick’s misunderstandings of the Board of Trustees’s and CCSU’s requirements pertaining to procurement, and his disregard for seeking and following advice of others outside the CCSU procurement offices, including attorneys. These attitudes are unacceptable in a public institution funded by public monies and accountable to a Board of Trustees.**
 - Interviews with various CCSU procurement personnel revealed there exists among some employees an attitude that if those involved in procurement decisions conclude that a transaction is in the best financial interests of CCSU, they need not allow laws, rules and regulations to stand in the way of concluding the transaction, and will circumvent review of their decisions by others who might slow or stop the process.
 - This “ends justifies the means” attitude was reflected in the conduct of Resnick, the CFO to whom purchasing personnel ultimately reported. This attitude resulted in CCSU’s execution of an illegal contract with Chartwells, in agreements on “side deals” that were unenforceable and purposefully not included in the written contract to avoid making these same benefits available to CCSU’s sister institutions, and in improper “extensions” of the expired Chartwells

contract. This attitude is reflected in Resnick's and Demos's decision to avoid meaningful review of the contract by CCSU's Counsel to the President and any review by the AGO, and their failure to accurately inform the President in response to his direct questions to them.

- Resnick demonstrated an arrogant disdain for attorney involvement in reviewing, advising on and approving the Chartwells contract, and a conscious disregard of the advice he received. He expressed his view that the proper role of CCSU's Counsel to the President was to provide "expertise on how to legally get around rules or issues that hinder our business and as such ultimately prevent us from moving ahead." As discussed above, the evidence shows that Resnick engaged in wholesale violations of applicable statutes and regulations, notwithstanding his belief that "I can read the statutes and follow the rules and regulations; I don't need an attorney to lecture me."
- Some of his colleagues appear to share Resnick's incorrect understanding of applicable rules. For example, Lori Padua, CCSU's Director of Business Services, testified that Resnick's use of "piggybacking" was proper in the Chartwells contract. She cited a provision of CCSU's Purchasing and Procedures manual, written by a department she supervises, as authority for Resnick's decision. Upon reviewing this provision, Padua stopped at one point and stated, "I don't think this is entirely true, because from reading this, it looks like we can only piggyback on a DAS contract, and that isn't the practice." When asked to describe the proper method for using "piggybacking," Padua replied, "It's all over the place. There's nothing written down. There's nothing documented. So to say what the proper method is, it's—you ask one state institution, they do it one way. You ask another state institution, they do it another way." When asked whether there were specific steps that CCSU must follow for proper use of "piggybacking" Padua stated, "Not to my knowledge. There's nothing formal that we follow in order to exercise our right under piggybacking."
- Padua incorrectly determined that CCSU was purchasing "a commodity" from Chartwells and properly could use a purchase order instead of a PSA.
- When asked to explain her understanding of the role of the AGO in reviewing PSAs, Padua stated, "I know it's not statutorily required, and we were—the System Office in general was trying to get that to stop, but for political reasons it didn't go further than that. So it's not statutorily required." Padua indicated no awareness that the Board of Trustees, the ultimate governing authority for CSU institutions, has expressly directed that all contracts for personal services above \$3,000 be submitted to the AGO, and that AGO approval must be obtained before services are performed.
- Our investigation did not seek to determine how or why Padua developed her beliefs and attitudes about the rules that apply to procurement decisions. The evidence shows, however, that Resnick has been her supervisor for the past

decade. As her supervisor, Resnick sent Padua an e-mail forwarded by Magnan, that inquired why Padua's department had sent so few PSAs to the AGO for review. Resnick's forwarding note to Padua declared "more bullshit." As her supervisor, Resnick also asked Padua whether he may send to the Senior Vice President an e-mail highly critical of Magnan, telling Padua that Magnan was a "fucking asshole."

- Richard Bachoo is CCSU's Chief Administrative Officer and, during Resnick's administrative leave, acting Chief Financial Officer. He testified that "I'm still questioning whether the AG's opinion [that the Chartwells contract was illegal because it had not gone to bid] is correct." Bachoo stated that it was permissible for CCSU to have "piggybacked" on SCSU's Chartwells contract without going to bid. Bachoo offered the following insight to the prevailing attitudes in CCSU's procurement department: "There is no public university in the system, and I'll include UConn in this, that has a better financial standing than Central. And a lot of that is driven by how we managed the food service contract. We are solid financially because of it. When you got a partner that good [Chartwells], you don't go looking around...I cannot put myself in Frank's place. I'm saying that Frank and I philosophically have this overall goal to enhance revenue of the institution. I can't speak for Frank. I want to be clear about that. But I'm thinking that's what he was doing and thinking, and the piggybacking thing gave us an opportunity to do it. I'm just saying what I'm thinking."
- Bachoo further stated "my understanding is that there is no legal authority that says the attorney general has to review—has to have the sign-off on the [Chartwells] contract." Bachoo did acknowledge that he would follow any CSU rules that require submission of contracts to the AGO, but maintained "there's a policy in the CSU, but there's no legal requirement."

Interim Recommendations

1. CCSU, with the assistance of the CSU System Office, should undertake a comprehensive education and training effort directed to CCSU employees involved in procurement. CCSU's procurement employees must know and follow the Policies of the Board of Trustees and statutory requirements regulating procurement practices.

2. CCSU must insure that employees no longer invent insupportable theories such as "piggybacking" and using purchase orders to avoid competitive bidding and appropriate review

by legal counsel when concluding a 10 year, \$40 million contract to procure professional services for the University.

3. CCSU should require that the Senior Vice President of Administration, who supervises the Chief Financial Officer, have experience and formal training in proper procurement procedures and requirements.

