



DEPARTMENT OF JUSTICE

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April 28, 2010

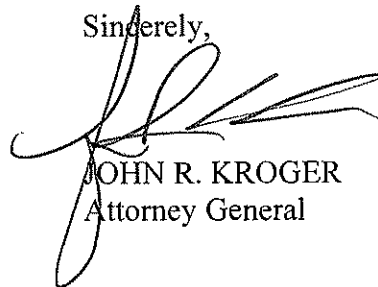
President Lariviere  
President's Office  
97403-1226 University of Oregon  
Eugene, OR 97403-1226

Dear President Lariviere,

We have enclosed our review of legal services rendered to the University of Oregon in connection with Mike Bellotti's employment agreement as Athletic Director. You have indicated your interest in having our review released publicly for purposes of transparency. Accordingly, we will provide this letter, together with the enclosed review, to any interested member of the public.

I look forward to working closely with you in the future.

Sincerely,



JOHN R. KROGER  
Attorney General

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Enclosure

**Attorney General's Review:  
Legal Services Rendered to the University of Oregon  
Relating to Athletic Director Michael Bellotti's  
Employment Agreement**

**I. Introduction**

The University of Oregon ("UO") employs Melinda Grier. During the time relevant to this review, her title was "General Counsel to the University." As such, Grier reported to the UO's President. As General Counsel, she performed administrative as well as legal work for the UO. During that time, Grier concurrently was appointed as a Special Assistant Attorney General ("SAAG"). As a SAAG, Grier's legal – but not administrative – work was subject to the Attorney General's direction and control.

In mid-March 2010, UO President Richard Lariviere and UO Director of Intercollegiate Athletics ("AD") Michael Bellotti signed a document entitled "Resignation and Release of Claims." In that document, Bellotti confirmed his resignation as AD, effective April 30, 2010, and the UO agreed to pay Bellotti \$2.3 million, on a payment schedule, plus interest on a portion of that sum.

On March 29, 2010, Attorney General Kroger ordered a review of events related to Bellotti's employment as AD. The purpose of the review was (a) to determine whether there was any evidence of criminal conduct or other illegal behavior warranting criminal investigation and (b) to assess the quality of legal services rendered to the UO in connection with Bellotti's employment as AD. This document reports on that review.

**II. Executive Summary**

In the course of our review we found no evidence of criminal or other intentional wrongdoing. Accordingly, no criminal investigation is warranted at this time.

We did find evidence of deficient legal representation in this transaction. The most significant legal error disclosed in this review (and in the parallel internal audit conducted by the Oregon University System) was the failure to reduce the terms of Bellotti's employment contract as AD to writing. Uncertainty as to key terms – including the amount of compensation due and the duration of the agreement – created substantial legal risk for the UO. In view of the resulting legal risks, the UO's decision to resolve the dispute for \$2.3 million (plus interest on a portion) was not an unreasonable business judgment.

**III. Facts**

In December 2008, the UO announced that Bellotti would, at some undetermined future date, cease being Head Football Coach and become AD. On March 13, 2009, the UO and Bellotti announced that Bellotti would immediately step down as Head Football Coach and assume duties as AD on July 1, 2009. Grier states that she was not

responsible for conducting UO's negotiations with Bellotti about the terms and conditions of his appointment as AD before either of these announcements.

In 2005, former President Frohnmayer delegated to Grier the authority to sign on his behalf "forms regarding routine personnel matters for the Department of Intercollegiate Athletics." In that capacity, on April 15, 2009, she signed the "Affirmative Action Compliance Statement" on the "Request to Offer Academic Staff Appointment" for Bellotti's interim (April 1, 2009-June 30, 2009) appointment as Senior Counselor to the Athletics Director. This document states that Bellotti's base salary as Senior Counselor to the Athletics Director would be \$350,000. Grier subsequently signed Bellotti's stipend (\$325,000) and mentor (\$300,000) payroll request forms (also known as "PRFs") in the role of Appointing Authority. Based on these documents, Bellotti's first-year compensation would include \$350,000 base salary plus \$625,000 in stipend and mentoring pay.

Grier's signature was the last of four required signatures on those forms. According to Grier, the purpose of her signature is to certify that the amounts listed are lawfully owed. Grier asserts that she relied in large part upon Associate Athletic Director Tom Larson's prior signature on these PRFs as her assurance that there was a proper basis for the payments.

The "Request to Offer Academic Staff Appointment" for Bellotti includes a handwritten note, probably from the UO's Unclassified Personnel Services office and added on April 20, 2009. The note states: "General Counsel to process contract." Grier acknowledges that she was expected to draft a contract memorializing the agreement.

Grier asserts that on approximately six occasions over the next eight months or so she asked several senior UO administrators, including former UO AD Kilkenny, Bellotti, and Larson, for a copy of a "term sheet" so she could prepare a comprehensive contract. A "term sheet" typically would be a single page document with a small number of bulleted deal points. She states that the foregoing individuals apparently agreed that such a "term sheet" existed but no one ever produced one. Grier does not recall if she made any requests for the term sheet in writing or by email. She states that, at the time, the preparation of the Bellotti AD employment contract was not her highest priority.

Grier did not mention the Bellotti employment contract assignment in her monthly reports to her DOJ supervising attorney, as required by the DOJ – OUS Interagency Agreement. *See* section IV, below.

In early 2010, President Lariviere decided that, at some undetermined future date, he wanted to replace Bellotti as AD. Around the same time, Bellotti received employment "feelers" that were of interest to him from ESPN, a sports broadcasting company. Bellotti and President Lariviere decided to attempt to negotiate mutually acceptable terms to end Bellotti's UO employment.

By a letter dated March 31, 2010, Grier indicated to Chancellor George Pernsteiner and State Board of Higher Education President Paul Kelly that, prior to the execution of the March 2010 "Resignation and Release of Claims" document, UO representatives and Bellotti had not agreed in their understanding of two key terms of Bellotti's oral AD employment agreement: its duration and the compensation owed.

#### **IV. DOJ-OUS Interagency Agreement and Grier's SAAG Appointment**

In May 2005, Attorney General Myers, the Oregon University System's Chancellor, and the Presidents of the University of Oregon, Oregon State University, and Portland State University executed an interagency agreement relating to the delivery of general counsel legal services to OUS and its constituent universities. This agreement remains in effect. The purpose of the agreement was, among other things, to give the universities greater control and flexibility in obtaining legal services.

Among other items, the agreement states that the Attorney General would appoint Melinda Grier (and others) as a SAAG subject to the conditions of the agreement. Attorney General Kroger reappointed Grier as a SAAG for two more years in June 2009.

One of the conditions of the agreement is that "a SAAG may serve as an administrator and as a SAAG on different matters, *but that individual cannot act as administrator and SAAG as to the same matter.*" (Emphasis added). Another condition is that "SAAGs are to provide periodic written reports on legal advice or other work performed by them under their SAAG appointment to the [DOJ] Supervising Attorney[.]"

#### **V. Assessment**

Grier knew that one of the UO's highest paid administrators was working without a Notice of Appointment or more comprehensive contract. It was her responsibility to draft a contract. She did not sufficiently pursue the alleged "term sheet" or timely conclude that such a document did not exist. She did not inform the DOJ that no contract had been drafted. She did not treat this assignment with the high priority it deserved.

The absence of a written AD employment agreement with Bellotti hampered negotiations as to the terms of his separation from UO employment.

UO administrators also bear some responsibility. They did not seek legal advice or drafting assistance in December 2008 when the "future transition" was initially worked out and announced – the time when legal assistance would have been most effective. They did not provide counsel with a mutually acceptable term sheet in a timely manner. And they did not have controls in place to prevent implementation of an unwritten contract.

Contrary to the DOJ-OUS inter-agency agreement, Grier acted as both an administrator and lawyer in connection with Bellotti's employment after he stepped down

as Head Football Coach. As a lawyer, she was responsible for drafting an employment contract and for providing advice about Bellotti's contract rights. As an administrator, she signed the "Affirmative Action Compliance Statement" on Bellotti's April 2009 "Request to Offer" (on the signature line entitled "Vice President/Designee") and at least two Bellotti Payroll Request Forms (stipend and supplemental pay) (on the signature line entitled "Appt. Auth.").

## **VI. Role of the Department of Justice**

Because Grier was a SAAG, the Attorney General as well as the UO was responsible for her performance. Had the Department of Justice known that Bellotti was working without a Notice of Appointment or more comprehensive contract, it would have intervened to insure that a contract was drafted and executed. That DOJ did not know this fact was the result of (a) Grier's failure to mention the Bellotti employment contract assignment – or the fact that Bellotti was working without a written contract – in her monthly reports to her DOJ supervising attorney, and (b) generally poor communication between the UO General Counsel's office and the Department of Justice. This latter problem stemmed both from personalities involved as well as institutional history and is the fault of both institutions.

## **VII. Conclusions**

As noted above, we found no evidence of criminal or other intentional wrongdoing in this transaction. Accordingly, no criminal investigation is warranted at this time.

As the State of Oregon's lawyers, the Department of Justice obviously has no position with respect to the wisdom of the UO's decision to replace Bellotti as AD. Once that decision was taken, the UO faced greater risk and uncertainty in its negotiations with Bellotti because of the deficiencies in legal services described above. In view of the resulting legal risks and uncertainties, the UO's decision to resolve the dispute for \$2.3 million (plus interest on a portion) was not unreasonable.

The deficiencies in legal services described above could have been remedied by greater supervision of Grier's performance by either UO or the Department of Justice. In light of these events, it is obvious that improving quality control with respect to legal services at the UO – and improving communication and coordination between the DOJ and UO – is necessary to ensure these problems are not repeated.