IN THE SUPERIOR COURT
OF FULTON COUNTY
GEORGIA

Leonard Witt, Susan Raines, Anne Richards, Scott Ritchey, Nicki Ayon, Virginia Bellew, Erin Ann Exum, Lane Hunter, Amanda Harrell, Brian Lawler, Jessica Boudreaux, Tiffany Griffin, Valerie Dribble Joshua Goodwin, Sarah Larkin, Elizabeth Gordon, Dr. Ben Williams, and the Cobb Chapter Leadership Conference of the Southern Christian Leadership Conference	}	**CIVIL ACTION NO.**
	}	**16-CV-**
Plaintiffs	}	**JURY TRIAL DEMANDED**
vs.	}	
Sam Olens, the Attorney General of Georgia, John Does, Hank Huckaby Steve Wrigley, Houston Davis, John Fuchko, The Board of Regents of the University System of Georgia, and Governor Nathan Deal	}	
Defendants	}	

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELEIF

Nature of the Case

1.

This Complaint is filed in opposition to the political appointment of Attorney General Sam Olens by the Board of Regents (BOR) as the sole candidate for the presidency of Kennesaw Sate University (KSU), without conducting a national search, without considering qualified applicants, in violation of the Regents' own policies regarding political interference and equal employment opportunity. Plaintiffs also allege that the Defendants' actions violate the Georgia RICO Act through knowing misrepresentations regarding the ouster of the previous president and placement of Olens as the sole candidate considered, in an apparent quid pro quo for Olens' actions in defense of claims and investigations of corruption within the University System of Georgia (USG), over which the Regents preside.

2.

Plaintiffs are a coalition of Kennesaw State University (KSU) faculty, alumni, and students, as well as members of the local community who are directly and negatively impacted by the actions of the Attorney General, Governor, and Board of Regents at Kennesaw State University. Two of the Plaintiffs are faculty members who applied for the position of KSU president

before the closed selection of Sam Olens by the Board of Regents (BOR), whose applications were never so much as acknowledged by the BOR and, as women, have filed EEO complaints for sexual discrimination.

3.

These harms include negative economic impacts on the school and community, as well as on the reputation and accreditation of KSU, and the value of KSU degrees and faculty appointments. These harms come from having their former president publicly removed in a misleading and scandalous manner, from the misrepresentations and failure to investigate the actual problems of corruption at KSU and throughout the University System of Georgia (USG) generally, and from having Olens forced on KSU without academic qualifications, without input or participation by the KSU community in the decision, without consideration of other qualified candidates available even without a national search. In addition, upon information and belief, the BOR is foisting Olens on KSU as an act of political favoritism, as a quid pro quo for unethical and illegal actions Olens has taken to defend the BOR for wrongdoing at KSU and other USG institutions.

4.

Moreover, the BOR did not disclose that Olens, as the co-defendant of the BOR in a series of pending RICO actions, faces allegations of knowing falsification of state agency reports for the express purpose of obstructing state and federal investigations, or that Olens maintained an improper and undisclosed relationship with the presiding judge in one of the cases, which has also been the subject of a federal criminal investigation. KSU, rather, has been promised that Olens is 'squeaky clean" and well-suited to address the serious and widespread financial wrongdoing alleged to have occurred at KSU with respect to fraud in the award of dining services contracts and spending of auxiliary reserves.

5.

Olens and the BOR have continued a pattern of misrepresentations and obstruction at KSU similar to that conducted at other USG institutions, notably the University of Georgia, where it is documented that the Attorney General oversaw an evidence tampering scheme in a miserably failed attempt to revoke a professor's tenure, and at the former Georgia Perimeter College (GPC)--where there was, similar to KSU, a financial scandal involving unexplained deficit spending from auxiliary reserves. At GPC, the USG and BOR, with the active cooperation of Attorney General Sam Olens, blamed the entire financial scandal on the president and ousted him through

a series of damning media reports based on complete misrepresentations of the facts and policies involved. Similarly, at KSU, at the same time a financial scandal in dining services was being exposed, the USG ousted the former KSU president, in a very public disgrace for KSU, with allegations of receiving improper compensation from the KSU Foundation. This not only misleadingly diverted accountability from the USG for the financial scandal at KSU, but also diverted attention from the fact that the USG and BOR themselves had grossly violated their own BOR Policy 2.8 by foisting off major responsibility for funding the president's compensation on to the KSU Foundation. The BOR then gave the president's position to Olens, who has cooperated with the BOR in defending it from clams and investigations regarding its corrupt practices, in a closed selection process in which no search was conducted and no other applicants were considered.

6.

Plaintiffs do not believe it is proper for the Attorney General who has obstructed investigation of the BOR to be rewarded by the BOR, through a completely closed selection process, with the presidency of KSU.

Urgency of Relief

7.

The request for injunctive relief is urgent because Dr. Papp has already been removed as president of KSU by improper means and his position is about to be filled by political appointment, because the Governor has already ignored no less than five requests to appoint a special attorney general to conduct an independent investigation of corrupt practices within the USG, and, most importantly, because Sam Olens is slated to assume the presidency of KSU tomorrow, on November 1, without consideration of other qualified candidates, and with considerable ethical and legal baggage—including obstructing the investigation of criminal wrongdoing within the USG and at USG institutions—a record of which the KSU community was entirely unaware.

Parties

8.

Defendant Sam Olens is the Attorney General of Georgia who has consistently impeded investigation of financial wrongdoing within the USG similar to what has been reported at KSU. He now seeks to vacate the office from which he has overseen this obstruction to take a position he sought

from the beneficiaries of his protection, the Board of Regents of the University System of Georgia.

9.

The Office of the Attorney General, now held by Olens, is constitutionally obligated to enforce the laws of the state and investigate and prosecute criminal conduct, especially to protect the state government from criminal corruption.

10.

The Board of Regents is a body of gubernatorial appointees who are responsible for oversight and direction of the University System of Georgia. The Board of Regents

11.

Hank Huckaby is the USG Chancellor who consistently violated BOR Policy by placing responsibility on the KSU Foundation for payment of major portions of the KSU president compensation. Huckaby participated, along with the Chairman of the BOR, in the decision to place Olens in the position of KSU president without conducting a search or interviewing other applicants. There is no documentation of the discussion between the Chairman and the Chancellor to decide not to conduct a national serach pursuant to BOR Policy 2.02.

12.

John Fuchko is a USG official in charge of audit who has produced a pattern of reports that distort the issues, arrive at conclusions contradicting the facts, mislead the public, and divert attention from wrongdoing within the USG in order to evade BOR and USG accountability.

13.

Non-party Daniel S. Papp is the former president of KSU who was driven from office by a misleading report by Fuchko that divert blame for the BOR's own violation of its own policies on presidential compensation to Papp and the KSU Foundation.

14.

Steve Wrigley is a USG vice chancellor slated to replace Hank Huckaby as USG Chancellor, as another in a line of insider appointments to key positions without a search, similar to placing Sam Olens as KSU president and Governor Deal's appointment of Chris Carr, who until recently had an inactive bar status, as Olens' replacement as Attorney General.

15.

Houston Davis is a USG official named interim president of KSU upon the former president's ouster.

16.

These Defendants and possibly other as yet inknown USG and KSU officials have misrepresented Olens as a uniquely and supremely qualified candidate to the KSU community, made representations to oust the former president to create the vacancy for Olens, have not properly followed BOR policy and procedure, and appear to have engaged in a quid pro quo with Olens to award him the KSU presidency for his defense of corrupt practices within the USG.

17.

Governor Nathan Deal has ignored no less than five separate requests, with supporting documentation of criminal conduct within the USG, to appoint a special attorney general to conduct an independent investigation of USG corruption, similar to what has no been reported in the dining services fraud and disappearance of auxiliary funds at KSU—which almost exactly parallels financial wrongdoing that was never properly addressed by the USG or the Attorney General at the former Georgia Perimeter College (GPC).

18.

Plaintiff Leonard Witt is a faculty member aggrieved by the political appointment of Sam Olens as an unqualified candidate without conducting a national search or interviewing other applicants for the position.

Plaintiff Susan Raines is a KSU faculty member aggrieved by the political appointment of Sam Olens without conducting a search or interviewing other applicants. Raines herself applied for the position and did not receive any acknowledgement or consideration of her application by the BOR.

19.

Plaintiff Anne Richards is a KSU faculty member aggrieved by the political appointment of Sam Olens without conducting a search or interviewing other applicants. Richards herself applied for the position and did not receive any acknowledgement or consideration of her application by the BOR.

20.

Valerie Dibble is a KSU faculty member aggrieved by the political appointment of Sam Olens, endangering KSU's accreditation, without conducting a search or interviewing other applicants. Dibble herself applied for the position and did not receive any acknowledgement or consideration of her application by the BOR.

21.

Plaintiff Brian Lawler is a KSU faculty member aggrieved by the political appointment of Sam Olens without any input from the KSU community, and with total disregard by the BOR for opposition by thousands of USG

stakeholders who have protested and signed petitions against the insider appointment.

22.

Plaintiff Scott Ritchey is a faculty member aggrieved by the closed selection process for KSU's president which excluded more qualified applicatns and candidates and endangers KSU's accreditation.

23.

Virginia Bellew is a KSU student aggrieved ny the appointment of Sam Olens without any input from the KSU community.

24.

Plaintiff Lane Hunter is a KSU student aggrieved by the political appointment of Sam Olens endangering the accreditation of KSU.

25.

Joshua Goodwin is a KSU student aggrieved by the misrepresentations used to disgrace the KSU president and the school and the failure to consider qualified applicants for the presidency of his school.

26.

Elizabeth Gordon is a KSU faculty member aggrieved by the failure to appoint a president with appropriate academic credentials for the KSU presidency.

27.

Plaintiff Tiffany Griffin is a KSU alumna aggrieved by the USG and BOR misrepresentations that have tarnished the reputation of KSU, along with the purely political appointment of a new president bringing previously undisclosed political and legal baggage to the position.

28.

Plaintiff Jennifer Boudreaux is a KSU alumna aggrieved by the closed selection process and political appointment of KSU's president.

29.

Plaintiff Amanda Harrell is a KSU student aggrieved by the appointment of Sanm Olens without regard to the needs of KSU or the wishes of the KSU community.

30.

Plaintiff Nicki Ayon is a KSU alumna aggrieved by the BOR lack of transparency in the removal of the former president and the political appointment of Sam Olens.

31.

Plaintiff Erin Ann Exum is a KSU alumna aggrieved by the BOR lack of transparency in the removal of the former president and the political appointment of Sam Olens.

32.

Plaintiff Sarah Larkin is a KSU alumna aggrieved by the political appointment of Sam Olens endangering KSU's accreditation.

33.

Plaintiff Dr. Ben Williams is a local community member aggrieved by the economic impact of the political appointment of Sam Olens endangering the accreditation of KSU, and serves as president of the local chapter of the Southern Christian Leadership Conference aggrieved by the BOR's disregard for its own policies and federal law on equal employment opportunity.

34.

Plaintiff Cobb County Chapter of the Southern Christian Leadership Conference is an organization committed to social justice whose members are impacted by the violations of BOR policy and federal law on Equal Employment Opportunity.

Jurisdiction and Venue

35.

A substantial part of the transactions giving rise to this action occurred in Fulton County and Defendants Board of Regents, Governor

Nathan Deal, and Attorney General of Georgia reside in the county. Therefore, venue is proper in Fulton County pursuant to OCGA § 9-10-93, § 9-11-65 and § 16-14-11.

36.

Service on Defendant Board of Regents of the University System of Georgia, State of Georgia, may be made pursuant to O.C.G.A. § 50-21-35 by serving the Chancellor of the Board of Regents, Hank M. Huckaby, at his usual office address, which is: 270 Washington Street, SW, Suite 7025, Atlanta, Georgia 30334, and by serving Lisa Pratt, Director of Risk Management Services of the Georgia Department of Administrative Services, at her usual office address, which is: 200 Piedmont Avenue, SE, Suite 1804, West Tower, Atlanta, Georgia, 30334-9010.

37.

Sam Olens, Attorney General of Georgia , may be served with process at the usual address of the office holder at 40 Capitol Square, SW, Atlanta, Georgia 30334.

38.

Governor Nathan Deal may be served at his usual office address at 203 State Capitol, Atlanta, Georgia 30334.

EEO Violations

39.

Without input from KSU stakeholders, without a search, without considering existing or potential applicants, USG Chancellor Hank Huckaby limited the pool of candidates to Huckaby's co-defendant in extant lawsuits, and the Board of Regents made the political appointment of Attorney General Sam Olens to become the next president of Kennesaw State University (KSU).

40.

It is not known to Plaintiffs how or whether the Chancellor followed BOR Policy 2.02 to determine that a national search was not required or appropriate for filling the KSU position.

41.

Huckaby and the Regents announced their intention to name Olens and consider Olens as the only candidate to deter other potential applicants. In fact, the BOR did not consider actual applicants for the KSU position.

42.

As at least two of the unconsidered applicants were women, the BOR did not follow its own policy on equal employment opportunity.

8.2.1 Equal Employment Opportunity
http://www.usg.edu/policymanual/section8/C224/
(Last Modified on June 26, 2009)
No person shall, on the grounds of race, color, sex, religion, creed, national origin, age, status as a disabled veteran or veteran of the Vietnam era, or handicap be excluded from employment or participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Board of Regents of the University System of Georgia or any of its several institutions now in existence or hereafter established. Incidents of harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal from the USG (BoR Minutes, 1969-70, p. 154; 1979-80, p. 15; October 2008).

Political Interference and Appearance of Quid Pro Quo

43.

Moreover, by appointing the sitting Attorney General to the KSU presidency, the BOR violated its own policy BOR 12.1 against political interference:

12.1 Political Interference
(http://www.usg.edu/policymanual/section12/C1764)
(Last Modified on February 10, 2011)
The Board of Regents is unalterably opposed to political interference or domination of any kind or character in the affairs of any USG institution (BoR Minutes, 1941-42, p. 88).

44.

There is a problem not only of political interference, with a purely political appointment, but also the appearance of an illegal quid pro quo.

Olens as Attorney General has defended and protected the USG from charges of corruption at other campuses. These include, inter alia, documented evidence tampering and perjury at UGA, falsification of leave reports and state pension fraud at the former Macon State College, knowing falsification of state agency reports to hide theft of taxpayer funds at the former Georgia Perimeter College, and the retaliatory firing of a whistleblower reporting conflicts of interest by a Board of Regents member at the Medical College of Georgia.

45.

Olens, more importantly, has defended the BOR in these cases by improper means, which include: seeking an order in federal court to bar plaintiffs from making legitimate claims against the BOR, based on fraudulent misrepresentations to the court by the Attorney General; maintaining an improper undisclosed relationship with the presiding judge in another case against the BOR; making knowingly false representations to obstruct investigations of BOR wrongdoing. Both the knowing misrepresentations and the obstruction are felonies.

46.

Now, in an apparent quid pro quo, the BOR appoints Olens as the sole candidate considered to be president of KSU, with a financial scandal

brewing at KSU, and over the protests of the KSU community of which Plaintiffs are representative.

47.

On information and belief, Plaintiffs have a legitimate concern that Olens can reasonably be expected to be just as compliant at KSU in stonewalling investigations of impropriety in the USG as he has at GPC, UGA, Macon State, and Medical College of Georgia, among the many examples.

48.

This is far from the "squeaky clean" candidate promoted as an appropriate choice for KSU president—and, in fact, the only candidate that should even be considered.

49.

In addition, the BOR has, in the process of creating the vacancy and filling it with Olens, committed a number of knowing misrepresentations that violate OCGA 16-10-20. These misrepresentations were conveyed by mail, wire, and computer in official correspondence and media reports.

50.

These include a misleading USG report and correspondence from the Chancellor on the reasons for removing Papp, as part of a larger pattern of

misrepresentations, involving other schools, for similar purposes by the USG.

51.

It includes the failure to follow the USG's own Policy 2.8 on presidential compensation, which in turn was used as false grounds to falsely malign Dr. Papp and force his departure by extortionate means, following the pattern of media pressure based on knowingly falsified reports used against Anthony Tricoli at GPC.

52.

On information and belief, the USG solicited Dr. Papp to accept compensation for unused annual leave at Georgia Tech, then used that to falsely malign Dr. Papp via mail, wire and computer networks and force his departure by extortionate means.

53.

The USG further created confusion between the misleading information, also released and transmitted by mail, sire and computer networks, and the dining services fraud scandal at KSU, similar to USG actions at other schools to divert blame and avoid accountability.

54.

The USG further purposely created confusion of Dr. Papp's supposed financial wrongdoing with the improper spend-down of KSU auxiliary reserves. Again, this follows a pattern similar to BOR action at other schools, most notably GPC.

55.

These actions harming KSU harmed all the faculty, student, and alumni Plaintiffs as stakeholders in KSU, as well as community members with an economic stake in the school's impact and success.

56.

The conduct described above constitutes RICO predicate acts under OCGA 16-14-3(5) for knowing misrepresentations of matters under state jurisdiction in violation of OCGA 16-10-20, mail fraud under 18 USC 1341, wire fraud under 18 USC 1343, violations of the Georgia Computer Systems Protection Act, OCga 16-9-90et seq.

Injunction Against State Explicitly Authorized by Georgia RICO Act

57.

The injunctive relief requested against the state entities is expressly authorized by the Georgia RICO Act OCGA § 16-14-1 et seq. ("the Act").

58.

The harms described above constitute harm to the state, and KSU in particular, as well as to individual plaintiffs, consistent with the legislative purpose of the Act. OCGA § 16-14-2.

59.

The Act defines RICO enterprises to include "governmental entities" such as the BOR, Attorney General, and Governor. OCGA § 16-14-3(3). The enterprise in this case consists of an association of entities and individuals in the BOR, Attorney General and Governor's office. Id.

60.

The Act prohibits control of a governmental entity through a pattern of RICO predicate acts committed by such an association of individuals and entities. OCGA § 16-14-4(a).

61.

The pattern of RICO predicate acts includes two or more by similar means, for similar purposes or with similar victims. OCGA §16-14-3(4).

62.

In this case, RICO predicate acts include acts alleged: knowing misrepresentations of matters under state jurisdiction in violation of OCGA 16-10-20, mail and wire fraud in violation of 18 USC 1341 &1343, and violations of the Georgia Computer Systems Protection Act.

63.

The Act specifically authorizes injunctive relief on behalf of any aggrieved person, against governmental entities, where a pattern of RICO predicate acts has been committed. OCGA 16-14-6(a&b).

64.

That injunctive relief available under the Act explicitly includes the suspension of any "prior approval," such as the BOR approval of Sam Olens as president of KSU, "by any agency of the state," such as the BOR or Governor's office. OCGA 16-14-6(a)(4).

65.

The available injunctive relief also explicitly includes the "reorganization of any governmental entity,: such as the reorganization of KSU's leadership Plaintiffs seek by barring the political appointment of Sam Olens in violation of BOR Policy 12.1, avoiding an illegal political quid pro quo in hiring Olens, and conducting a search pursuant to BOR policy 2.02, complying with all Equal Employment Opportunity requirements, as required both by federal law and BOR Policy 8.2.1; and conducting a proper independent investigation of the misrepresentations surrounding the removal of the former president, Dr. Papp, and the instatement of Olens as the sole candidate for the position.

66.

The Act also authorizes a TRO against governmental entities where there is a showing of "immediate danger of significant loss or damage." OCGA 16-14-6(b). Such a danger of immediate harm is present in the instant case because the former president has already been removed and disgraced by questionable means, to the detriment of the school, its reputation, and the economic value of its degrees and accreditation. The same immediate future harms are posed by Sam Olens taking office on November 1, 2016, as is already scheduled to occur absent action by this Court.

67.

In particular, Defendants' highly politicized and insider-dealing course of conduct places KSU's accreditation status at risk, pursuant to the policy of the accreditation agency, SACS Policy 3.2.4:

> Governance and Administration section of SACSCOC Principles of Accreditation. It specially addresses section:
>
> *3.2.4*
> *The governing board is free from undue influence from political, religious, or other external bodies and protects the institution from such influence. (External influence)*

68.

This RICO relief extends to individual state officers as well as governmental entities. The Act specifically prohibits "any person employed by or associated with any governmental entity" to conduct or participate in a RICO scheme. OCGA 16-14-4(b).

69.

The Act also makes it "unlawful for any person to conspire or endeavor to violate any of the Act's prohibitions regarding controlling a governmental entity through a pattern of RICO predicate acts. OCGA 16-14-4(c). The Act prohibits engaging in a pattern of RICO predicate acts, such as knowing falsifications and computer fraud, to maintain an interest or control of a governmental entity. OCGA 16-14-4(a).

70.

Furthermore, with the future, reputation, accreditation, and economic impact of KSU at stake, Plaintiffs certify, pursuant to OCGA 16-14-12, the special importance of this matter, qualifying it for expedited action by the Court. The stakes are high for concerned faculty, students, and alumni of KSU, and the harm of an appointment that will be difficult to undo is imminent, on November 1. This matter is also of extreme importance because the BOR pattern and practice now being visited on KSU is extended on a regular basis to other USG institutions, including well-documented

examples at UGA, GPC, Macon State, Medical College of Georgia, and now KSU.

Prayer for Relief

Wherefore, premises considered, the Plaintiffs, concerned faculty, students, and alumni of KSU, ask this Court to enter a TRO barring the political appointment of Sam Olens to the KSU presidency and preventing his assumption of that office, preserving the status quo until such time as the underlying action can be fully adjudicated on the merits.

In addition to the temporary restraining order, Plaintiffs seek the following relief:

A permanent injunction barring Attorney General Sam Olens from assuming the position of President of Kennesaw State University, by political appointment, without a search for qualified candidates or consideration of other applicants for the position;

A permanent injunction nullifying the Board of Regents' approval of naming Olens as President of KSU via a political appointment violating the Board's own policies against political interference and violations of equal employment opportunity law;

An injunction requiring Governor Nathan Deal to observe the authority of OCGA 45-1-8 and appoint a politically objective special attorney general to conduct an independent investigation of financial wrongdoing at KSU, including the BOR's violation of its own policies and governing law, as well as patterns of similar conduct at other USG institutions and the role of Attorney General Sam Olens in obstructing investigation of BOR misconduct;

An injunction rescinding the agreement between the Chairman of the Board of Regents and the Chancellor of the University System of Georgia to make a political appointment in violation of BOR policy and requiring a national search consistent with the terms set forth in BOR Policy 2.02;

An award of attorneys' fees and costs of litigation pursuant to OCGA 16-14-6(c);

Damages to any plaintiff arising from BOR violation of governing law and policy;

Treble and punitive damages to any plaintiff pursuant to OCGA 16-14-6(c); and

Any other relief the Court deems just and proper.

Respectfully submitted this 31st day of October, 2016,

STEPHEN F. HUMPHREYS, P.C.

/s/ Stephen F. Humphreys

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