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June 21, 2007

The Honorable Sarabeth Snuggs, Director
Division of Retirement
State of Florida
PO Box 9000
Tallahassee, Fl 32315-9000

Re: Investigation: City of Alachua and City Manager Clovis Watson

Dear Director Snuggs:

I represent the plaintiffs in an action¹ now pending against the City of Alachua and City Manager Clovis Watson in the circuit court in Alachua County. Although some aspects of the complaint are not of concern to the Division of Retirement, certain aspects relate directly to the security of the Florida Retirement System and the accuracy of reports made to it by public employers in the state. I write to request you to make a vigorous investigation of the circumstance I describe below.

In a quick summary, the City of Alachua employed Clovis Watson as a uniformed police officer in about 1983. During his employment as a full time police officer, Watson was legally eligible for special risk status in the FRS. In 2002, the City of Alachua employed Watson as its full time city manager. Initially, Watson was employed as interim city manager but he quickly became city manager and has retained that status until the present. This employment does not qualify for special risk status in FRS.

¹Grapski and Canney v. City of Alachua and Clovis Watson, case no. 01-07 CA 824.

Notwithstanding his employment as City Manager, the City of Alachua has continued to report to the Florida Department of Law Enforcement that Watson is employed in the City's police department as a full time law enforcement officer. The City of Alachua has also continued to report to FRS that Watson is employed full time in a special risk category throughout the time he has been employed as full time city manager.

Although we do not yet have *sworn* testimony to prove the falsity of the claim that Watson was employed full time as a police officer during the time he has been full time city manager, it is false. In fact, Florida's constitutional dual office holding prohibition² constitutionally forbids permitting one person to hold the position of city manager and police officer at the same time. While he was Florida's attorney general, now-Governor Crist rendered a firm opinion on this.³ Although your division may not be interested in the dual office issue of itself, FRS is substantially affected by the City's report that Watson is employed in a special risk category when he is in fact serving full time as city manager. As you know, even if Watson were employed in a dual status (which the dual office holding prohibition outlaws in this case), Chapter 121 requires that an employee be employed for the "majority of the time" in the special risk category to be entitled to FRS special risk status. §121.051(9)(a)1. The evidence shows that Watson is employed full time as city manager and not employed at all as a police officer.

This is not a trivial matter. According to a document prepared by your division, City paid Watson about \$61,000 in the last year in which he was in fact employed full time in that capacity (2002). (See enclosures.) The same report shows Watson's present pay (as city manager but reported to FRS as special risk) to be about \$140,000 per year. If Watson should retire with 25 years of service (as we believe he plans to do in a year or two), the difference between his retirement pay⁴ based upon a final five year average of about \$140,000 as opposed to about \$61,000 is enormous. It can be roughly computed as: $0.75 \times (\$140,000 - 61,000)$

²Article II §5 Florida Constitution.

³See AGO 2006-27

⁴Indeed, Watson's current estimated retirement benefit (about \$105,000) can be contrasted to the estimate of \$19,547.50 per year your division made on June 12, 1997. (See enclosure 1.)

= \$59,000 per year more or less. If you assume a 20 year life expectancy and extend the added amount over the lifetime, then you may estimate that FRS would pay Watson a sum of about \$1.2 million which is not authorized by law. This would be quite a raid on FRS funds. In addition, it appears from the information that has been attained locally that the amount of salary the City of Alachua has actually paid Watson in recent years is considerably less than the amount reported to FRS.

My client Charles Grapski has been in touch with officials in your division about this matter. Your staff may have informed you of these contacts. I personally contacted your legal counsel (Larry Scott) several weeks ago to request that FRS join as a plaintiff in our legal action. At that time, Scott informed me that the Division seeks administrative remedies in appropriate cases and showed no interest in joining our case. Whether he has made any independent inquiry, I cannot say.

I now write to you to request that you personally direct your staff to undertake a most vigorous investigation of this matter, if you have not already done so. Plainly, the security of the FRS is at risk, which is a matter of fiduciary concern to you. It is also a matter of personal concern to you and most state employees because it relates to the security of FRS. It is also both of professional and personal concern to me, because I too am a member of FRS. Even if an investigation should prove this to be an isolated occasion, the analysis above shows it to be of substantial importance if the circumstances prove to be as the evidence we now have makes them appear.

For your information, I enclose several documents that describe the circumstances. First, are copies of some of the documentation about Watson's FRS record your division provided to Grapski. Second, are copies of Watson's city manager contracts with the City of Alachua commencing in 2002 up through a contract approved on June 18, 2007. This last contract is Watson's attempt to avoid the dual office holding allegations, which I believe will prove futile. Third, is a copy of portions of the City of Alachua's Charter, which includes article IV dealing with the duties of the city manager. Fourth, is a copy of Attorney General Crist's dual office-holding opinion 2006-27. Fifth, is an article that appeared in the High Springs Herald on November 30, 2006. This article makes plain that Watson is attempting to obtain an inflated pension and that the City is supinely

going along with him. My clients believe the attempt to be illegal and damaging to the taxpayers of the City of Alachua and to FRS and its members.

As you know both Governor Crist and Attorney General McCollum have been most emphatic about their desire to have our government run honestly and transparently. Both also possess the authority to undertake investigations of this matter if they should choose to do so. If necessary my clients intend to request their assistance. In the meantime, my clients also believe that involvement of the governor and attorney general will be unnecessary if your division undertakes a thorough investigation on its own. I am, however, sending a copy of this letter to the Commissioner Gerald M. Bailey, head of the Department of Law Enforcement because of the direct interest there.

I would be grateful for a reply to this letter. In the meantime, I would be pleased to supply you any information that I possess that might assist the division in making an investigation.

Yours sincerely,

Joseph W. Little

Enclosures (5)

cc: Charles Grapski (without enc.)
Michael Canney (without enc.)

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