GENERAL ASSEMBLY
STATE OF ILLINOIS

MICHAEL J. MADIGAN
SPEAKER
HOUSE OF REPRESENTATIVES

ROOM 300
STATE HOUSE
SPRINGFIELD, ILLINOIS 62706

July 18, 2012

Dear Members of the General Assembly:

As you know, the *Chicago Tribune* published several articles that implied conflicts of interest between my law practice and my position as Speaker. These articles provided ample speculation, but few facts. I have come to learn from individuals interviewed by the *Tribune* that the authors were provided information that directly contradicted the reporters' conclusions—but that information appears nowhere in the articles.

Despite the implications, it is clear that the reporters have failed to uncover any evidence of conflicts of interest or *quid pro quo* between my legislative acts and the interests of my law firm, or of any other unethical conduct on my part. They have failed to find any evidence because it does not exist. Yet they insist on publishing articles that imply, if not outright state, that I have engaged in inappropriate conduct.

None of my actions as Speaker or as an attorney have been inappropriate or violative of any applicable law or ethical rule. I have imposed requirements on my law firm and myself, beyond what is required by the law, to ensure ethical conduct, and I go to great lengths to make certain there is a clear division between my law practice and my actions as a public official. Any potential law firm client who seeks a State benefit is not accepted. If a client requests my intercession with a State agency, I refuse. If a client expresses an interest in legislation, I recuse myself from consideration of the bill.

Even though the *Tribune* consistently ignores information that might cast their stories in a considerably different light, I am grateful to share such information with you. Enclosed you will find information relevant to the implications, as well as several inaccuracies found in the articles.

With kindest personal regards, I remain

Sincerely yours,

Michael J. Madigan

MICHAEL J. MADIGAN
Speaker of the House

Enclosures

ISSUES RAISED IN THE *CHICAGO TRIBUNE* ARTICLES

1. **Whether legislation that transformed the supportive living facilities pilot project into a permanent program was the result of Pathway Senior Living hiring my law firm?**

On June 2, 2012, the Chicago Tribune published an article entitled *"Favorable legislation flows to private clients of House Speaker Madigan."* The article implied that the passage of Senate Bill 1651 of the 94th General Assembly – which was *unanimously* approved by the General Assembly and became law July 26, 2005 – was somehow attributable to the relationship between my law firm and Pathway Senior Living, LLC ("Pathway"). It is true that my firm represents one of Pathway's twelve properties, and it is presumably true that Pathway benefited from the State's decision to make the program permanent. But neither Pathway nor I initiated the legislation. In fact, if the *Tribune* had researched this issue at all, they would have discovered that the legislation was the direct result of actions taken by Governor Blagojevich – who has never been mistaken for an ally of mine – and a gubernatorial agency. The legislation implemented a rule proposed by the Department of Public Aid and approved by the Joint Committee on Administrative Rules ("JCAR") that ensured that the Department had sufficient statutory authority to operate the supportive living facilities program, which had proven to result in significant savings to the State of Illinois.

In 1996, the Department of Public Aid was given statutory authority to study alternative settings for long-term care by establishing administrative rules that allowed for supportive living facilities. In 2001, the Governor placed a moratorium on new applications. On February 5, 2004, the federal government approved an increase in the number of Medicaid-eligible individuals that the State could serve. As a result, the Governor lifted the moratorium. On October 29, 2004, the Department proposed new administrative rules that reflected its desire to implement a full-scale program. JCAR determined that the Department needed additional statutory authority, and on February 7, 2005, JCAR issued a formal recommendation that the Department seek statutory authority to implement a permanent program. At the request of the Department and JCAR, Senator Kwame Raoul filed Senate Bill 1651. Thus, it was the Governor and the Department who made the decision to establish a permanent program.

Consistent with the explanation above, a bill analysis prepared by Senate staff (dated April 6, 2005) stated that the bill was introduced to implement an administrative rule approved by JCAR in February 2005 that required the Department to seek authority to continue and expand the program. The analysis stated that research showed that placing an individual in a supportive living facility was 60% less expensive than placing the individual in a nursing home bed. Public records in the Senate and House indicate that JCAR, AARP, and the Catholic Conference of Illinois supported the bill. It should be noted that Pathway was not on record as supporting the legislation. Senate Bill 1651 passed the Senate (56-0) and the House (113-0) and became Public Act 94-342.

At no time did any person in my firm or I discuss this pending legislation, or any pending or proposed legislation related to Pathway's properties or senior living facilities in general, with any officer or representative of Pathway. In fact, to the best of my knowledge, I have met with representatives of Pathway on only one occasion. My law partner, Bud Getzendanner, and I met with James Kaledjian, President of Pathway, on October 24, 2004, to discuss the firm assisting with property tax issues with a senior living facility Pathway intended to build at 105th and Michigan Avenue in Chicago, now known as Victory Center of Roseland. Mr. Kaledjian's statements in the article confirm my recollection. Additionally, I believe he made it clear that we never discussed legislative issues and that Pathway's decision to hire my firm had nothing to do with their legislative interests.

Accordingly, it is undisputed (but barely mentioned in the June 2nd article) that this legislation (i) was initiated by a governor who by no means was an ally of mine; (ii) received unanimous legislative support; (iii) resulted in significant savings to the State by providing a lower-cost method of care; and (iv) benefits countless poor and elderly citizens in Illinois. The *Tribune* reporters would ignore virtually all of this relevant information and focus, instead, on that the fact that one of the companies that owned these facilities utilized the services of my law firm for one legal project months after that legislation passed. I believe it would be clear to any reasonable person – armed with *all* of the relevant information, not just that cherry-picked by the reporters – that there is no connection between my firm's representation of Pathway and the passage of that legislation.

2. **Whether legislation that provided supportive living facilities with a property tax break was the result of Pathway Senior Living hiring my law firm?**

The *Tribune* article published on June 2, 2012, implied that the passage of Senate Bill 2185 of the 94th General Assembly, which became law on January 19, 2007, somehow demonstrated a conflict of interest between my firm and my public acts. Given that I voted "present" on the legislation and recused myself from consideration of the matter, I am at a loss to understand why the *Tribune* believes that I had a conflict of interest. I voted "present," as I usually do on property tax issues, as an act of caution. In light of the *Tribune*'s strained attempts to link my legislative actions to clients of the firm who might "benefit" from such actions, my caution appears to be well-founded.

The legislation provided a property tax exemption by allowing assessors to exclude Medicaid payments for services from the supportive living facilities' income, but only to the extent that such service payments were reimbursed by Medicaid and attributable to services and not real estate. Representative Currie recalls that the legislation may have been drafted by Assessor Houlihan's office, and she has publicly stated that she does not recall any conversations with me regarding this bill. According to a House Democratic staff analysis (dated April 18, 2006), the intent of the legislation was to ensure uniformity in the assessment process for all supportive living facilities. At the time, some assessors, including Cook County, were already excluding these types of

payments, whereas others were not. Since Cook County was already applying this property tax exemption, the client referred to in the article was receiving the benefits of this "favorable legislation" long before it was introduced in the Senate.

Senate and House records indicate that the Illinois Equity Fund, Developer Services Group, and Illinois Health Care Association supported the legislation. Again, there is no record indicating that Pathway was a proponent of the bill. Senate Bill 2185 was approved unanimously by the General Assembly with one exception – I voted present.

As I stated previously, I did not, nor have I to this day, discussed proposed or pending legislation related to senior living facilities with Mr. Kaledjian or any employee of Pathway. Again, Mr. Keledjian's recollection that the company never lobbied me on this issue, or any other issues, corroborates my statement.

3. **Whether nursing homes, pharmacies, and other supportive living facilities represented by my law firm received favorable consideration during negotiations related to the recent Medicaid legislation?**

The *Tribune* article published on June 2, 2012, states that certain Medicaid providers, such as nursing homes, pharmacies, and supportive living facilities, received favorable treatment, and they imply that this supposed preferential treatment was due to my relationship to certain facilities via my law practice. As I will explain below, their premise is incorrect – there was no favorable treatment – and, in any event, I exerted absolutely no influence to benefit any of them.

Staff Support

The June 2nd article suggests members of my staff, David Ellis and John Lowder, were brought into Medicaid negotiations to protect clients of my firm. This is not true. My staff assisted with crafting the legislation (as did staff from each of the other caucuses), but at no point during the process did I instruct Mr. Ellis or Mr. Lowder to protect any client or to ensure that a company or industry received favorable treatment.

My direction to staff was to solve the $2.7 billion structural deficit in the Medicaid budget by forging consensus on issues and pushing the parties to final decisions within a given time frame, with the ultimate goal of producing legislation that would be approved by a majority of the members of both chambers. Both were at liberty to provide their individual expertise. Mr. Ellis was given the specific task of mediating disputes, assisting members with negotiations, and ensuring the legislation was prepared within the requisite timetable.

The article fails to recognize that much of the work centered on the identification of cuts or other savings in the Medicaid budget, and the individuals principally responsible for identifying those cuts and savings were the Legislative Medicaid

Advisory Committee ("LMAC"). LMAC consisted of one member from each legislative caucus – Representative Sara Feigenholtz, Representative Patricia Bellock, Senator Heather Steans and Senator Dale Righter – with assistance from Julie Hamos, Director of Healthcare and Family Services ("DHFS") and her staff, as well as staff from each of the four legislative caucuses. All four legislative caucuses provided staff assistance and each staff played a major role in drafting the final legislation.

Medicaid Providers in General

The *Tribune* reporters claimed that the nursing homes, pharmacies, and other supportive living facilities "were able to avoid the worst of the proposals that targeted them." What the *Tribune* article does not say, however, is that all of the Medicaid providers (with a few exceptions not relevant here) received a rate cut of approximately 3 percent, be they hospitals, nursing homes, pharmacies, etc. Thus, to the extent that the cuts to certain providers were lower than originally proposed, that fact is true across the board for all providers, not just pharmacies, nursing homes, and supportive living facilities.

Beyond that simple fact, when the *Tribune* reporters reference the "worst of the proposals," they do not specify what they mean. Presumably, they are referring to Governor Quinn's introductory proposal, which provided a framework for fixing a $2.7 billion structural deficit in the Medicaid budget. But the Governor's original proposal was just that – a *proposal* – and had not been reviewed by members of the General Assembly prior to its release or introduced (or even drafted) as legislation. It was the starting point, with the full expectation that the final product would almost certainly look somewhat different.

As you may recall, the Governor proposed to solve the $2.7 billion structural deficit in the Medicaid budget as follows:

(1) $1.4 billion in cuts to services and programs;
(2) $675 million from an increase in the cigarette tax; and
(3) $700 million in rate cuts to providers.

After months of bi-partisan discussion, LMAC, the Governor's office, and DHFS developed a comprehensive package that solved the $2.7 billion deficit as follows:

(1) $1.36 billion in cuts to services and programs;
(2) $700 million from an increase in the cigarette tax;
(3) $100 million from a new hospital assessment;
(4) $300 million in supplemental funds from Fiscal Year 2012 ("FY12"); and
(5) $240 million in across-the-board rate cuts for virtually all Medicaid providers.

The *Tribune* article fails to acknowledge that the differences between the original proposal and the final product were due to negotiations between the Governor's office, DHFS, and the four legislative caucuses, rather than the possibility of undue influence by my clients or me. The structure of the package dramatically changed when the caucuses agreed to use supplemental funds from FY12 to pay past due bills, the hospitals agreed to

an additional $100 million in the form of a new assessment, and the General Assembly agreed to outsource eligibility verification (which should result in savings estimated at $350 million). As desperate as the *Tribune* reporters are to believe that I exerted influence to assist my clients, the truth is that the General Assembly worked together in a bi-partisan fashion to craft a solution to this problem. At no point did I attempt to influence the outcome of the legislation for the purpose of benefiting or assisting a client.

In fact, the opposite is true. Take, for example, the enhanced eligibility verification, whereby the State would hire an outside vendor to check the eligibility status of Medicaid recipients. Many of the Medicaid providers (most notably the largest group, the hospitals) wanted the savings from that new program to be estimated at $700 million or higher – for the simple reason that the higher the estimated savings plugged into the budget, the less money would have to be cut from the providers' reimbursement rates in reaching the $2.7 billion target. The House Republicans were on record as wanting that estimate to be at least $540 million. Using such high estimates was attractive because at that level, it was possible that no Medicaid provider – hospitals, nursing homes, pharmacies, etc. – would have to take any cut whatsoever in the reimbursement rates.

Despite what the *Tribune* perceives as my many conflicts of interest, however, I stood alone among the legislative leaders in refusing to agree to these inflated figures and by insisting that the Medicaid problem would not be resolved solely on the backs of the poor and needy, without the providers sharing in the pain. I very easily could have agreed to these higher savings estimates and, by doing so, could have spared the nursing homes, supportive living facilities, and pharmacies from any cut to their rates whatsoever. This indisputable fact, which appears nowhere in the *Tribune* article, belies any notion that my public positions are dictated by my law practice.

Despite the fact that my actions, described above, directly led to rate cuts on these providers, the *Tribune* article was technically accurate in stating that the cuts to the providers were less than the more dire cuts originally proposed. But again, the figures I have listed above show that the reason that the full $700 million did not need to be cut from the providers (as originally proposed by Governor Quinn) was due to several factors, namely (i) the enhanced eligibility verification; (ii) the new hospital assessment, which generated an additional $100 million for Medicaid expenses; and (iii) the use of the FY12 surplus money. I have heard no meaningful criticisms of any of these three sources. The new eligibility verification system has been almost universally lauded as an attempt to scrub the rolls of ineligible Medicaid recipients. The new hospital assessment involves no State money – it is a voluntary tax on hospitals that the hospitals, themselves, requested and which gave the State an additional revenue stream. And the FY12 surplus was essentially "found" money in the FY12 budget that could now be used to cover Medicaid expenses.

Thus, the *Tribune*'s treatment of this issue is misleading at best. The reporters take two pieces of information – that a few clients of my law firm are Medicaid providers and that the ultimate across-the-board cuts to Medicaid providers were not as drastic as originally proposed – and leave their readers with the impression that the one fact is

related to the other. As I have explained, that notion is ridiculous. Any reasonable reader, armed with all of this information, would agree.

Supportive Living Facilities

Supportive living facilities, like many other Medicaid providers, received an across-the-board cut of approximately 3 percent. They were also subjected to an *additional* cut, which resulted in an estimated $20.8 million cut to the industry, when supportive living facilities were "de-linked" from nursing homes. Thus, supportive living facilities could well claim that they received deeper cuts than their counterparts. This information did not appear in the *Tribune* articles.

The *Tribune* makes much of the fact that the Governor's proposal called for the elimination of funding for supportive living facilities, a proposal that the legislature rejected. According to Representative Sara Feigenholtz, the lead negotiator for the House Democrats, LMAC concluded that it was unwise to eliminate supportive living facilities, as they were more cost effective than other Medicaid providers, and resulted in substantial savings for the State. Representative Feigenholtz explained this to one of the *Tribune* reporters during an interview. She also stated that the decision to preserve the supportive living facilities was made in the early stages of LMAC's work – long before one of my attorneys, David Ellis, began attending meetings. Furthermore, Representative Feigenholtz was specifically asked if I requested that these facilities be protected or that my clients receive some sort of preferential treatment, and she stated that I had never discussed this issue with her. But, again, none of this information was included in the article.

With respect to the article's inferences that supportive living facilities received preferential treatment, let me be clear – I disagree with that premise, but regardless, I did not exert any influence or direct any outcome with respect to the supportive living facilities.

Pharmacies

To any knowledgeable observer of the Medicaid negotiations, the notion that pharmacies received preferential treatment is not only false but laughable. Pharmacies, like almost every other Medicaid provider, received a rate cut of approximately 3 percent in the Medicaid legislation. Moreover, the pharmacy community – represented by the Illinois Retail Merchants Association ("IRMA"), Illinois Pharmacists Association, Association of Indian Pharmacists in America, and Illinois Council of Health System Pharmacists – had agreed in February to a significant rate cut of 5.9% in fees, and to move to performance based contracting (which could also result in a significant cut). When the across-the-board Medicaid rate cuts were announced this year, which included pharmacies, representatives of the pharmacy community furiously objected that it was unfair to subject pharmacies to a second rate cut. They lobbied one legislator after another about the unfair treatment of pharmacies. For newspaper reporters, purporting to comprehensively research a topic, to fail to capture these easily-ascertainable facts is

negligent at best.

What is even worse, however, is that I am told that David Vite, President of IRMA, explained this background to one of the *Tribune* reporters in each of two interviews. He explained that pharmacies had agreed to rate cuts and performance based contracting earlier in the year, and that now they were subjected to an additional 3 percent cut, in addition to the fact that approximately $180 million in prescription revenues would no longer be made available because of other cuts made by LMAC. Mr. Vite explained to the reporter how pharmacies were being treated much worse than other Medicaid providers. Yet these facts did not appear anywhere in the *Tribune* series. Instead, the *Tribune* reporters skillfully avoided these inconvenient details; rather than focusing on pharmacies in particular, they simply made the global claim that pharmacies and other providers "avoided the worst of the proposals" made during the Medicaid negotiations. That claim is only technically true and, particularly in the case of the pharmacies, is incredibly incomplete and misleading.

Given that pharmacies obviously did *not* receive preferential treatment in the Medicaid legislation, it should be clear that I did not exert any influence on their behalf. But let me directly say here, for the record, that I did not do so. This was another point Mr. Vite expressed to the *Tribune* reporter – he specifically told the reporter that he and I have never discussed the Medicaid legislation or pharmacy issues in general.

It is correct that my firm has represented properties owned by CVS Caremark, but I have never discussed legislative matters with CVS Caremark representatives and have never taken action on a matter with intent to benefit a client. I acknowledge that the quote from CVS Caremark that appeared in the article insinuates that I have met with representatives of the companies on occasion; however, that is not my recollection, and after publication, I asked CVS Caremark for clarification. I received a response from the Vice President for Government Affairs that stated, "Per Speaker Madigan's request, please let him know that as the lead for government affairs in Illinois for CVS Caremark, I have never had a meeting with him or his staff on substantive legislative issues, nor has any other employee acting on the company's behalf. There has been some informal contact with him through our retained lobbyists, but no meetings of a substantive nature on behalf of CVS Caremark. All of our lobbying on Medicaid reimbursement has been done through our state trade association IRMA."

Nursing Homes

The nursing home industry, as a whole, was also negatively impacted. Like all other providers, they received the same across-the-board rate cut of approximately 3 percent. However, to ensure that those with the greatest needs would not be adversely impacted, the cuts were tailored within the industry, consistent with the Governor's long-term objectives for the care of vulnerable individuals. With the support of DHFS and the Governor's office, the rate cuts targeted primarily low-need patients. These types of cuts were favorable to non-profit nursing homes with high elderly populations, rather than for-profit entities.

The article supposes that nursing homes benefitted in that they received new rules on increased nurse-staffing ratios. It is true that the issue of staffing ratios has been hotly contested between the Governor's office and nursing homes. It was an issue unresolved two years ago in the comprehensive nursing-home reform legislation. It is accurate to say that the staffing ratios in the Medicaid legislation were less than the full amount the Governor's office had been seeking. But it should not be headline news that the government, in negotiating with private industry, sometimes gets less than everything it wants. And what the *Tribune* reporters failed to explain is that the staffing ratios were part of a larger negotiation with the nursing homes that resulted in a new system for rate reimbursement being implemented in the future – a system the Governor's office has long desired and the for-profit nursing homes have resisted (known as the "RUGS" system). Implementation of the RUGS system is part of the Governor's long-term strategy to focus Medicaid money more on the high-need (usually elderly) patients and less on the lower-need (usually mentally ill) patients. But rather than place the issue of the staffing ratios in the context of an unremarkable give-and-take negotiation, the *Tribune* articles only mentioned one side of the conversation.

I would like to make the statement that at no time did I direct any particular action with regard to nursing homes in the Medicaid legislation, nor did I demand or even suggest a certain outcome.

As a final point, I am disturbed that the article failed to provide the facts about the Medicaid legislation, but I am even more disturbed that the authors failed to include statements made by members of the General Assembly who were instrumental in crafting the package. These members provided first-hand accounts of the process and my role in the legislation. Representative Feigenholtz made it clear that I never discussed the details of the proposals, and that I had never asked her to make changes that would benefit a client. Representative Greg Harris informed one of the authors that he and I did not have conversations about appropriations related to implementing the Medicaid package.

4. **Whether the Medicaid legislation was drafted behind closed doors?**

The *Tribune* reporters appear to believe the Medicaid package was crafted in secret with input only from my staff. What the article fails to recognize is that LMAC meetings were attended by representatives and staff from each caucus, the Governor's office, and DHFS. LMAC would meet at the convenience of the group, so as to ensure representatives from all four caucuses were able to attend. Many meetings were held early in the morning or late at night. Representative Feigenholtz advised the reporter that meeting times were dependent on the schedules of those attending the meetings. She also told him that LMAC often invited state agencies and stakeholders to present information and ask questions. She recalls that anyone who asked to attend was included.

It is also worth noting that Representative Feigenholtz believes the reporter incorrectly attributed a response to one of his questions. The article states, "Asked why

the public can't attend, state Representative Sara Feigenholtz, D-Chicago, said, 'No one has ever asked me that question before. I would have to ask (Madigan's) chief of staff what the reasons are behind that,' added Feigenholtz, the ranking House Democrat on the panel." According to Representative Feigenholtz, this was her response to the author's inquiry as to why there was paper covering the windows of the doors where the meetings were occurring (Room 100 of the Capitol), rather than her response to his question about why the meetings were not open. It should be noted that Room 100 is used for various meetings, some of which include visual presentations, and the window covering helps reduce glare and aids in the viewing of these presentations.

5. **Facts Surrounding the 2010 Foreclosure Legislation.**

On June 4, 2012, the *Tribune* published an article entitled, *"Michael Madigan tax clients unscathed in foreclosure debate."* Given that I have been a leading voice in combating predatory lending practices of Illinois financial institutions for more than a decade, I am offended by the *Tribune's* insinuation that I would place personal gain ahead of the families that have been impacted by this crisis and the decimation of communities that has occurred as a result of thousands of boarded-up houses in my neighborhood and throughout the State. I can only assume that the reporters did not contact those who represent the financial industries in Springfield. Had they taken the time to do so, they would have learned that the industry does not view me as an ally. Joyce Nardulli, Vice President of Government Relations for the Illinois Bankers Association, has said that she disagreed with the *Tribune's* inferences, mainly because I have been anything but helpful to the banking industry.

The *Tribune* article states that foreclosure legislation drafted by Representative Karen Yarbrough and housing advocates was "watered down by the banking industry in 2010 after top Madigan lieutenants took control of the negotiations," and "their proposal had been replaced by a compromise bill written by the banking industry." The reporters present an inaccurate account of the process and the facts, particularly given that Representative Yarbrough's language had never been filed, either as a bill or amendment to a bill, and Representative Lyons was the chief sponsor of the legislation in question since its arrival in the House.

In 2010, Representative Yarbrough worked with Business and Professional People for the Public Interest ("BPI") and the City of Chicago on a proposal to allow municipalities to enact vacant property ordinances and hold lenders responsible for maintaining and securing vacant properties. Additionally, the proposal assessed a $1,000 fee on judicial sales of foreclosed homes, with the proceeds used to support increased housing counseling and court-based mediation. Representative Yarbrough and several housing advocates worked on the language for several months. The language was never filed, either as a bill or as an amendment to a bill. It was, for all purposes, a draft.

Around the same time, Senator Collins introduced two bills in the Senate: (1) Senate Bill 3738, which established a foreclosure prevention counseling program to

distribute grants to HUD-certified counseling agencies (the program did not have a funding source); and (2) Senate Bill 3739, which extended the sunset of the "30-30-30 foreclosure notification program" from April 6, 2011 to August 2, 2013. Both bills passed the Senate on March 15, 2010, and Representative Lyons picked up sponsorship of the bills in the House. According to the bill status report, Representative Lyons became the chief sponsor on March 15, 2010. SB 3739 was referred to Judiciary I committee, and SB 3738 remained in Rules.

House amendment #1 to Senate Bill 3739 was filed on May 6th and the Judiciary I committee recommended adoption of the amendment on May 7th. The amendment did three things: (1) retained the substance of the underlying bill (extension of the 30-30-30 program); (2) created a Foreclosure Prevention Program, funded by a $50 filing fee on foreclosure actions, with proceeds going to support foreclosure prevention outreach programs; and (3) an Abandoned Residential Property Municipal Relief Program, funded by a fee on sale of residential real estate purchased at a judicial sale, with proceeds used to make grants to municipalities to assist with clean up and maintenance of abandoned properties.

The article attempts to draw conclusions and insinuate that there was a conspiracy to prevent Representative Yarbrough's bill from moving. In reality two members of the House had different views on how to craft legislation. Representative Lyons filed his amendment, called it in committee, and asked the House to consider the legislation on the floor. Representative Yarbrough did not. To the best of my recollection, I never requested Representative Yarbrough withhold filing of her legislation, and in fact, I recall advising her that I would support such legislation. It is correct that Representative Yarbrough was upset that Representative Lyons chose to move Senate Bill 3739, but this was simply because he chose to move competing legislation.

It's worth noting that, despite the *Tribune's* characterization of the bill, the financial industry did not support this bill – the industry did not to take a position. As Representative Lyons stated on the floor, the financial industry was initially opposed to the legislation, but they removed their opposition after negotiating lower fees.

Additionally, the article states that, "Community activists hoped their plan would raise millions of dollars a year, but the fund currently has a little more than $166,000." The article fails to recognize that the legislation created two funds. As of June 5, 2012, the funds created in Senate Bill 3739 had the following balances:

Abandoned Residential Property Municipal Relief:		$167,575.97
Foreclosure Prevention Program:		$2,588,867.67
	TOTAL:	***$2,756,443.64***

As I understand it, both Representatives Yarbrough and Lyons explained to the authors that I was not intimately involved with the drafting of either bill. Representative Yarbrough received nothing but support and encouragement from me during negotiations for the bill in 2010 and again in 2012. It was her decision, not mine, to forego moving the

legislation in the hopes of building a coalition and filing a bill during a subsequent General Assembly.

I am advised that Adam Gross, Director of Affordable Housing for Business and Professional People for the Public Interest ("BPI"), told the authors that Representative Yarbrough's bill didn't have enough support and the advocates hadn't done enough to build the base for the bill. Again, I find it remarkable that the *Tribune* reporters neglected to include this information in the article.

To be clear – at no time have I, or any person in my firm for that matter, had discussions with clients of the firm regarding proposed or pending legislation related to the financial industry. At no time have I taken legislative action with the intent to benefit a client.

6. **Facts Surrounding the 2012 Foreclosure Legislation.**

The *Tribune* article published on June 4, 2012, implies that I made decisions related to legislation introduced in 2012 for the benefit of banks represented by my law firm, despite that fact that my legislative record demonstrates that my decisions are often contrary to their interests. Again, at no time have I, or any person in my firm for that matter, had discussions with clients of the firm regarding proposed or pending legislation related to the financial industry.

As amended in the House by Representative Yarbrough, Senate Bill 16 did three things: (1) permitted municipalities to establish ordinances requiring registration of vacant properties; (2) permitted municipalities to require banks to maintain and secure vacant properties; and (3) allowed for a "fast track" foreclosure process for abandoned properties. The bill was the product of input and negotiation with BPI, Heartland Alliance for Human Needs and Human Rights, the City of Chicago, and the Governor's Office. Senate Bill 16 was never called for a vote on Third Reading, and according to the advocates for Senate Bill 16, the bill did not have the requisite votes in the House or the Senate. It was Representative Yarbrough's decision, in consultation with the advocates, not to call Senate Bill 16, and instead develop an alternative option.

Senate Bill 3522 was the alternative. The legislation incorporated a "fast track" foreclosure process, increased fees for foreclosure filings, and increased the fee collected at judicial sales. In an attempt to divide the financial industry and ensure the necessary votes in both chambers, the advocates, in consultation with the Governor's office, made the decision to exempt small banks and credit unions from both fees. Representative Yarbrough agreed to make this change, and as a result, the legislation exempted lenders with less than $10 billion in assets from the filing and judicial sales fees. At no time did I advise Representative Yarbrough that she should make this change. In fact, I encouraged Representative Yarbrough to reconsider this change and continue to fight for the more comprehensive legislation. She made the decision to call the bill, and I supported it – just as I would have supported Senate Bill 16 had that been called for final action. As stated in the article, Senate Bill 3522 passed the House, but was not called in the Senate

because, according to Senator Collins, the bill did not have sufficient support in the Senate.

Representative Yarbrough advised the reporters of these facts; however, they choose not to print them. It was more salacious to imply that I was working to assist my clients, rather than printing the truth – my only interest was in supporting legislation that significantly impacted families and communities devastated by the foreclosure crisis.

Additionally, it's important to recognize that many financial institutions and the Illinois Bankers Association – a group consisting of the banks represented by my law firm – were opposed to Senate Bill 16 and Senate Bill 3522. The Illinois Bankers Association was vehemently opposed to these bills, yet I supported them.

7. **State Employees Engaged in Political Activities**

The article published in the *Chicago Tribune* on June 5, 2012, makes the point that state employees – both Democrat and Republican – will occasionally take a leave of absence from their state job to engage in political activities. This is true. To my knowledge, all four caucus permit staff to take a leave of absence.

To ensure a clear division between government and political work, the State Officials and Employees Ethics Act ("Ethics Act") prohibits State employees from conducting "prohibited political activities" while on State time. As a way for government officials to ensure their employees are complying with this law, the Ethics Act requires all employees to maintain timesheets (my office required staff to keep timesheets prior to implementation of the Ethics Act).

My office does everything within its power to ensure that political work is not performed while on State time. Allowing staff to take a leave of absence is a way to ensure that State funds are not used for political purposes.

8. **Reference to *Crain's* Article**

In an editorial published on June 8, 2012, the *Chicago Tribune* referenced a *Crain's* article published November 14, 2011, that implied legislation filed between 2005 and 2010 to allow McCormick Place to refinance debt was stalled due to interests of my firm's clients or a means of imposing political retribution. This is absolutely incorrect. It's also somewhat ironic given that, in 2010, I spent an extraordinary amount of time and effort to ensure the passage of critical, landmark legislation to assist the Metropolitan Pier and Exposition Authority ("Authority") – legislation that even the *Tribune* has praised.

Any actions I may have taken at the time were to protect McCormick Place and prevent the General Assembly from giving the Blagojevich administration a new avenue for their pay-to-play schemes. As stated in the article, I had obtained proof that the Blagojevich administration intended to play a role in directing the contracts for bond work and legal services related to structuring the debt. It was my concern that the CEO

(who was appointed by Governor Blagojevich) would be complicit in attempts to use McCormick Place for the Governor's personal and political gain.

Furthermore, the legislation introduced between 2005 and 2010 was problematic because it allowed the Authority to make a one-time deal to refinance in a way that would require a smaller payment now, while adding additional debt on the backend. This was contrary to legislation adopted by the General Assembly in 2004 to eliminate balloon payments and require level principal payments for state debt. In 2010, I sponsored the reform package that allowed the Authority to restructure debt in a much different manner. The 2010 legislation permitted the Authority to restructure over a period of time, which allowed the Authority to review its available capacity and market conditions in order to choose the structure and timing for bond transactions. This gave the Authority the flexibility to enter the market at a time of its choosing with a transaction that met the goals of the Authority's long-term debt plan, and provided additional protections for the State. As a result, the Authority's transactions were executed with all-time record low rates and in a manner that has been well received by the bond markets.

The article insinuated two of my clients – Central Station and Forest City – received some benefit because I resisted the refinancing legislation. However, I had blocked the legislation before these entities were clients and presumably before they conceived the idea of a hotel at McCormick Place (the article references a 2007 meeting at which the plan first arose). My firm began representing Forest City in July 2007 and Central Station in 2008. I am uncertain how my actions in 2005 through 2007 can be attributable to those clients. My law partner, Bud Getzendanner, and I became aware that Central Station and Forest City were considering a land swap with McCormick Place in December 2009. I do not know if the parcels the firm worked on were related to the land swap, but nevertheless, Mr. Getzendanner advised Central Station at that time that we would no longer be able to provide real estate tax representation.

Finally, the insinuation that legislation was stalled because a former employee of my office was dismissed is preposterous. I played no role in assisting Mr. Johnson with obtaining a position with McCormick Place. The notion that I would hold up legislation because a former employee was discharged is nonsensical.

While not necessarily relevant to the insinuations made against me, I would like to point out that my staff was advised by the Authority that *Crain's* claim that the failure to refinance between 2005 and 2010 cost taxpayers $500 million is not accurate. During that time period, the Authority's total interests and payments were equal to approximately $605 million; thus, the only way to save $500 million would have been to defer almost all of the debt payment during those years, which would have been fiscally irresponsible.