

October 30, 2013

VIA EMAIL avanfleet@mwe.com

Mr. Allan Van Fleet
McDermott Will & Emery
1000 Louisiana, Suite 3900
Houston, Texas 77002

RE: House Select Transparency Committee

Mr. Van Fleet:

I am writing to address issues concerning your client's appearance before the House Select Committee on Transparency in State Agency Operations and his response to the Committee's still unsatisfied request for documents. You recently advised us by letter that your client is available to appear only on November 12 of the committee's next proposed hearing dates and only in response to subpoena. It is premature, however, to discuss your client's appearance before the Committee when we have received neither documents responsive to the Committee's October 9, 2013 request nor an unequivocal representation from you that such information will be forthcoming. Once we have received all of the responsive material from your client, we will be prepared to schedule his appearance.

Last week, the Committee received a letter from Philip Hilder, outside counsel to the University of Texas System, explaining that you are currently in possession of material responsive to the committee's October 9 letter request to Regent Hall. Mr. Hilder specifically represented that you have been possession of 1,153 pages of "non-confidential" documents since October 21, before the hearings last week began. Mr. Hilder also noted that neither you nor your client has provided any documents to the University of Texas System since the Committee made its request on October 9 and since the System asked your client on October 16 to transmit any potentially responsive material to it for review.

In the days following the hearing, we have begun to receive a rolling production of documents from the System which Mr. Hilder described as "19,000 pages of documents that [Regent Hall] provided to U.T. System in April and May 2013 for production to Sen. Zaffirini and Rep. Martinez Fischer pursuant to their legislative purpose requests under Tex. Gov. Code § 552.008." We have received nothing from you other than a letter about your client's schedule and preference regarding his appearance before the committee.

As was no doubt apparent to you during last week's hearing, the Committee needs the material it requested to continue its investigation. Although we do not concede at this time that documents sought pursuant to Section 665 of the Texas Government Code may be withheld on the basis of alleged confidentiality, privileges, or protections, at the very least we request that "non-confidential" material be provided to the Committee office immediately. We also remind you that the Committee's requests plainly seek documents that would have been created after May 2013.

We consider your production of responsive material to be a prerequisite to any discussion of your client's appearance before the Committee. We view your failure to produce documents responsive to the Committee's request as problematic, grounds for sanction and, potentially, contempt. If we are misinformed or mistaken as to efforts you and your client have undertaken to comply with the Committee's request, we welcome clarification. As Mr. Hilder noted at the conclusion of his letter, "It remains incumbent on Regent Hall and his counsel to identify and/or determine which documents are responsive to the Committee's requests."

We previously asked you to provide us with the names of any witnesses you and your client would like to appear before the Committee. To date, we have not received a single name from you in response to our request. We remind you of this invitation and request that you provide us with the names of your proposed witnesses as soon as possible so that we can make arrangements for any witnesses to testify at the Committee's next hearing.

Sincerely,



Rusty Hardin