

BOARD OF REGENTS

EASTERN MICHIGAN UNIVERSITY

SECTION: 11

DATE:

June 23, 2009

RECOMMENDATION

SETTLEMENT WITH JOHN FALLON AT NO OUT-OF-POCKET COST TO EMU

ACTION REQUESTED

It is recommended that the Board of Regents approve the terms of a settlement with John Fallon ("Fallon") requiring no out-of-pocket costs to EMU, and authorize and direct the General Counsel of EMU to execute the attached Settlement Agreement and General Release on behalf of the Board of Regents of Eastern Michigan University.

STAFF SUMMARY

In October 2007, Fallon sued the EMU Board of Regents and then-Regent Chairperson Sidlik ("Sidlik"), asserting claims relating to the termination of Fallon's employment with EMU. The Washtenaw County Circuit Court dismissed those claims in October and November of 2008. In February 2009, the Circuit Court also ordered Fallon to pay costs to EMU in the amount of \$18,355.09. Fallon appealed the dismissal Orders, certain other interim Orders, and the Order requiring him to pay costs.

Under the terms of the proposed settlement:

- Fallon acknowledges the enforceability of the following Circuit Court Orders, among others:
 - ☐ October 10, 2008 Order dismissing Fallon's claim against Regent Sidlik;
 - ☐ November 7, 2008 Order dismissing Fallon's claim against the Board of Regents;
- Fallon agrees to voluntarily dismiss all of his appeals against the Regents and Sidlik.
- Fallon releases any and all claims that he has or ever had (whether asserted in the lawsuit or not) against the Board of Regents, Sidlik, and/or any and all other persons or entities affiliated with or related to EMU, whether in the past, present, or future.
- Fallon agrees that he will not make any false or disparaging statements or comments about EMU (or anyone affiliated with or related to EMU) or Sidlik, in any non-private medium.
- Fallon agrees that he will never again seek employment with EMU, and waives and releases any claim to be hired or employed by EMU.

- Fallon acknowledges that the settlement does not constitute any admission of wrongdoing by EMU or Sidlik, and that EMU and Sidlik deny any wrongdoing.

In return:

- EMU and Sidlik agree to waive their right to recoup from Fallon the \$18,355.09 in costs awarded by the Circuit Court in its February 10, 2009 Order (which is currently on appeal).
- The current members of the Board of Regents agree that they will not make any false or disparaging statements or comments about Fallon in any non-private medium.

Since more than seven (7) days have expired since Fallon signed the Settlement Agreement and General Release on May 15, 2009, the settlement is irrevocable by Fallon and fully and immediately enforceable upon its execution by the Board of Regents and Sidlik.

FISCAL IMPLICATIONS

EMU will pay no out-of-pocket costs as part of the proposed settlement.

EMU will forego collection of the \$18,355.09 in costs that the Circuit Court ordered Fallon to pay.

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.

University Executive Officer

Date

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