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June 15, 2011

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RE: Memorandum in Opposition of A.7991 (Assembly Member Peter Abbate)

AN ACT to amend Chapter 171 of the laws of 2010 amending the retirement and social security law and other laws relating to establishing the New York state MWBE asset management and financial institution strategy and the retirement and social security law, in relation to the New York state deferred compensation plan's role in the New York State MWBE asset management and financial institution strategy; and to repeal certain provisions of the state finance law relating thereto

The New York Chapter of the National Association of Securities Professionals, NASP, strongly opposes this legislation, which partially repeals the NYS Emerging Investment Manager and MWBE Financial Institution Strategy by removing the NYS Deferred Compensation Retirement Plan ("Plan") from the list of entities that are required to participate in New York State MWBE Asset Management and Financial Institution Strategy set forth by Chapter 171 of the Laws of 2010.

The MWBE Asset Management and Financial Institution Strategy codifies and replicates, across certain fiduciary-controlled entities established by New York State law, best practices with respect to the inclusion of minority and women-owned business enterprises that are asset managers, investment banks, and financial and professional service firms in the opportunity to provide services to such fiduciary-controlled entities. Additionally, the law facilitates transparency by creating a regime of public reporting about the use of such firms for such services.

The introduction of this legislation undermines the unprecedented gains adopted last year by the State Legislature. The sponsor's memo speaks to an "agreement" to remove Deferred Compensation from the New York State MWBE Asset Management and Financial Institution Strategy Law. If there was truly such an "agreement", it was inappropriate and inconsistent with the last administration, as well as the current administration's, agenda to increase MWBE participation in New York State. After waiting more than twenty years for the State to build upon the contracting and procurement laws set forth by then Governor Mario Cuomo, MWBE stakeholders and partners shun any attempt to characterize this bill as just a technical correction. It is an erosion of a State law designed to increase economic opportunity and parity to minority and women business owners.



The Deferred Compensation Plan is a creation of both Federal and State statutes. It is therefore entirely appropriate that this "Plan" be included within the policy goals of the State. The language of the law was crafted carefully as to not have a negative impact on the fiduciary obligation on the trustees, plan sponsors, fiduciaries, board members or executive officers of the fiduciary-controlled entities specified in the law. Unfortunately, at the heart of the matter is the lack of will within the Deferred Compensation Plan to independently adopt and implement meaningful strategies that would increase business opportunities for New York State MWBE firms.

To that end, the New York State MWBE Asset Management and Financial Institution Strategy set forth by Chapter 171 of the Laws of 2010 should remain intact. The New York Chapter of the National Association of Securities Professionals strongly urges the Legislature to reject Assembly Bill 7991.

Sincerely,

A handwritten signature in black ink, appearing to be "John J. ...", written over a black rectangular background.

President