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May 1, 2012

Confidential

President Richard Brodhead
Box 90001
Duke University
Durham NC 27708

Dear President Brodhead,

On behalf of the Advisory Committee of Investment Responsibility (ACIR), please find enclosed our report and recommendations regarding the matter of "conflict minerals" referred to the ACIR in January 2012 by you and by the President's Special Committee (PSC) on Investment Responsibility.

This letter addresses three points that the ACIR discussed and that I need to bring to your attention.

First, the ACIR has drafted its report to be released as a public document. If you approve, the ACIR will post this report on its public website. The student petitioners are asking frequently to see our report, and they will likely circulate it widely or post it on their own websites once they receive it. This "conflict minerals" matter is itself largely about transparency, and if the report is not made public, one can anticipate criticism on that ground. Moreover, education is an essential function of the ACIR as part of the University. Thus, we have included in our report information that we believe to be appropriate for public dissemination (including having received the assent of DUMAC to the release of our report, including section 4 on Duke's investments, and the appendix of DUMAC's presentation slides).

If, however, you find that specific materials or sections of the report should not be publicly disclosed, the ACIR would appreciate an opportunity to revise those sections so that a subsequent version of this report could soon be released and posted on our website as a public document. Please let us know at your earliest convenience.

Second, the ACIR report makes three recommendations to you:

- A. The ACIR recommends to you that you propose to the Board of Trustees the student petitioners' first request for a "proxy voting guideline" on reporting of the use of "conflict minerals," applicable only to companies in which Duke holds "direct" ownership.
- B. The students' second request originally called for a prohibition on future investment in companies that violated the conflict minerals provision of the Dodd-Frank Act. But the students subsequently revised it in April to call for "corporate engagement," in the specific form of a letter from the President to companies in which Duke invests where those companies report the use of conflict minerals (in compliance with Dodd-Frank) without remedying the harm, or where those companies violate the Dodd-Frank provision.

Regarding this second request, the ACIR recommends to you a process of "engagement" – but the ACIR has not prescribed the specific timing, form or content of any such engagement (leaving these questions to the discretion of the President). And the ACIR has not posed this recommendation as necessarily requiring a Board of Trustees resolution, but rather has characterized it as a process of learning and evaluation by the University community over time and through a variety of methods. Our intent in this recommendation is to enable Duke to signal its seriousness about this issue, while also fulfilling Duke's educational purposes by building into this process a mechanism for continued learning and updating of Duke's policies as understanding improves of this complex issue and of the potential intended and unintended consequences of the recommended investment measures (including potential benefits but also risks for the population sought to be helped by the students' requests). These complexities, potential tradeoffs, and the need for a process of learning and updating are described in sections 1 and 5 of our report. In the ACIR's deliberations, we thought it plausible that the timing, form and content of such engagement might best involve not only letters to companies in which Duke invests, but a broader array of inquiry, special events and lectures, field research, policy analysis, alumni relations, and other avenues of learning about the multifaceted aspects of this issue.

- C. Additionally, we have included a third recommendation that signals the need to plan now for some review in the future. It identifies a timeframe for review (5 years), potentially leading to strengthening or sunseting or otherwise updating these policies, as we learn about these measures over time. Without planning such a review in advance, an initially well-designed policy can eventually become a mismatch with changing circumstances, and the information needed for a conscientious review can go uncollected. (The Board of Trustees' resolution on the Sudan/Darfur investment guideline, adopted in 2008, contained a built-in sunset clause to be triggered by US Government action to lift official sanctions, but no such triggering event was apparent to the ACIR in the conflict minerals matter.) Of course, we recognize that there is nothing to preclude the President or the Trustees from acting to amend or discontinue any resolution or policy of the University at any point before or after the proposed 5 year review, including this 5 year review itself. We simply considered planning ahead for review and evaluation to be a prudent part of policy making from the outset.

Last, beyond the current matter of “conflict minerals,” the ACIR discussed the multi-step process that leads to the convening of ACIR and the consideration of specific matters. We recognize that the intent when the process was established may have been to keep the process targeted and deliberate, with a limited number of possible investment measures so as to avoid overwhelming our institutional capacity and investment management. At the same time, one consequence of this process is that the ACIR's agenda is set by the particular interests of whoever submits a request to the PSC, rather than by a broader evaluation of the highest priorities for action that can be effective in addressing the most important problems. (The civil war in the Congo arguably is one of those most important problems, but the current process does not focus attention on evaluating the range of world issues and response options – the war in the Congo itself might have been overlooked, as might other issues.) We simply want to raise this question to you, as I did orally at the Senior Leadership Group meeting on April 25, in case you think it warrants further consideration by you or discussion among University leaders and/or Trustees, as to how this process could be improved – to maintain its careful deliberative steps, and avoid overwhelming the institution with too many matters and measures, while also strengthening its priority-setting mechanisms.

We thank you for the opportunity to study this important issue. I also want to thank the members of the ACIR, who have been highly engaged throughout the review of this matter, and who consider their service on this committee to have been both informative and rewarding. It has been a pleasure for me to work with my colleagues on the ACIR. I am very grateful as well to Michele Witman (of the Office of the Vice President for Public Affairs and Government Relations) for her excellent and tireless assistance in coordinating the work of the ACIR. And may I thank you and Richard Riddell for your invaluable guidance throughout this process and for your considered assessment of our report.

Yours,

A handwritten signature in black ink, reading "Jonathan B. Wiener". The signature is written in a cursive, flowing style.

Jonathan B. Wiener
Chair, ACIR, 2011-12
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