

September 28, 2011

Hon. Dennis M. Walcott
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

EXECUTIVE SUMMARY

**Re: Future Technology Associates, LLC, Tamer Sevintuna,
Jonathan Krohe, Judith Hederman, Swaroop Atre, Kabir Rekhi,
Mustafa Cem Arpaci**

SCI Case No. 2009-2871

Dear Chancellor Walcott:

This is an executive summary of the annexed detailed report released today. An investigation conducted by the Office of the Special Commissioner of Investigation (“SCI”) has substantiated that Future Technology Associates, LLC (“FTA”) submitted false filings with the New York State Office of General Services (“OGS”) in order to obtain a contract with the Department of Education (“DOE”) in 2005. We have also substantiated that FTA and its owners, Tamer Sevintuna and Jonathan Krohe, violated the terms of FTA’s contract with the DOE and committed fraud. Sevintuna and Krohe submitted false documents to the DOE, the Mayor’s Office of Contract Services (“MOCS”), the New York City Comptroller’s Office (“NYC Comptroller”), SCI and a New York State Supreme Court Judge. They concealed from government agencies and the New York Daily News their ownership of and subcontracting arrangements with a number of companies, including Krono Bilgisayer, Ltd. (“Krono”), a company they established in Turkey.¹ The purpose of these deceptions was to retain this contract and to significantly enhance FTA’s profits.

¹ Sevintuna and Krohe were assisted in this concealment by their employee, Mustafa Cem Arpaci.

SCI has further determined that Judith Hederman, a high-level official in the DOE Division of Financial Operations (“DFO”), who had significant oversight concerning the 2005 contract with FTA and was the Chancellor’s Designee to oversee FTA’s 2009 DOE contract, supplied confidential information to Krohe regarding the DOE’s concerns about FTA. Hederman also falsely denied in sworn testimony that she had a close personal relationship with Krohe. After Hederman’s attorney acknowledged that her client’s testimony concerning her relationship with Krohe should not be relied upon, Hederman returned to SCI and was placed under oath. She asserted the Fifth Amendment privilege against self-incrimination to all substantive questions asked of her.

Krohe and Sevintuna, contrary to FTA’s contractual obligation to cooperate with SCI, repeatedly adjourned scheduled interviews and were subpoenaed to appear and give testimony. Along with Swaroop Atre, an FTA employee, they successfully moved to quash SCI’s subpoenas. When, months later, they agreed to accept subpoenas from SCI, Sevintuna, Krohe and Atre each asserted the Fifth Amendment privilege to all substantive questions.

Kabir Rekhi, the proprietor of Quantanomics, Inc., also asserted the Fifth Amendment privilege when subpoenaed to testify by SCI. Quantanomics was a subcontractor of FTA in servicing the DOE, an arrangement prohibited by FTA’s contracts with the Department.

As a result of this investigation, the DOE ended its contract with FTA and Judith Hederman resigned from the DOE.

This investigation began in July 2009 after Juan Gonzalez, a columnist for the New York Daily News wrote a series of articles questioning the FTA contracts with the DOE.

THE CONTRACTS

In November of 2005, FTA, a company with no business history, was engaged by the DOE as a successor to Tier Technologies, Inc. (“Tier”), which had a long-term contract to service the DOE’s Financial Accounting Management Information System, and other computer-based programs, including payroll and contract aid systems. FTA was owned by Tamer Sevintuna and Jonathan Krohe, consultants who had worked for Tier and the prior holder of the contract. The contract with FTA was estimated to cost \$2.5 million annually. The DOE granted FTA extensions of the 2005 contract until 2009, when it awarded the company a new contract (collectively, “the DOE-FTA contracts”). In the course of five and one-half years, the DOE paid FTA more than \$74 million.

In order to be awarded the 2005 DOE contract, FTA lied in its application to the OGS. FTA's application misleadingly cited four projects dating from 2002 as the company's requisite experience. The DOE was listed as the customer in each project and two DOE officials were listed as references. FTA had not been awarded any contracts by the DOE and the four projects listed had been performed by the prior contract holder, Tier. The two DOE officials denied any knowledge of being a reference for FTA.

The DOE's stated cost-savings rationale for awarding FTA its initial no-bid contract in 2005 was flawed in several respects, some of which were specified in a report issued to the DOE by the NYC Comptroller in July 2011.²

*(Pages 2 – 8)*³

Almost immediately after being awarded the 2005 contract, FTA began to violate its terms. One of the provisions violated stated that all work was to be performed at a DOE facility in Brooklyn. Not only did FTA ignore that requirement, but they subcontracted with companies employing consultants in Turkey and India. A second provision prohibited this subcontracting. FTA subcontracted with more than a dozen companies in violation of its contract.

In order to be able to utilize the consultants in Turkey and India, FTA had to obtain DOE approval for remote access to secure DOE websites. The DOE officials who authorized access to these websites claimed not to know that the authorized persons were overseas. They described the reason presented to them for remote access as "Production support during off work hours and weekends."

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The deliberate violations of the contract provisions and the remote access to the DOE websites which FTA dishonestly obtained allowed Sevintuna and Krohe to set up a company which they co-owned, Krono, located in Ankara, Turkey.⁴ During the four-year period from June 2007 through May 2011, Sevintuna and Krohe, as the owners of Krono, paid consultants who worked in Turkey \$10 to \$14 an hour. Sevintuna and Krohe,

² See letter to Hon. Dennis Walcott from Deputy Comptroller H. Tina Kim, July 29, 2011 ("Letter Report on the Awarding of the Future Technology Associates, LLC, Contract in 2005 (FP11-117AL)").

³ Page references are to the annexed detailed report.

⁴ Krono succeeded IPS Bilgisayer, Ltd. ("IPS"), another firm in Turkey co-owned by Sevintuna and Krohe, which they established in 2006 to service the DOE contract. SCI was unable to determine the compensation paid to the IPS consultants whose services FTA billed to the DOE for a total of \$789,460. In 2007, the IPS workers transferred to Krono, which paid its consultants \$10 to \$14 per hour.

as the owners of Krono, then charged Sevintuna and Krohe, as the owners of FTA, \$55 an hour for the consultants. Finally, Sevintuna and Krohe, as the owners of FTA, charged the DOE at least \$110 for the same \$10 to \$14 an hour consultants. At least \$6.5 million billed to the DOE during the four-year period was based on this fraud.

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In order to conceal this fraud, Sevintuna and Krohe, both personally and through their attorneys at Gibson Dunn & Crutcher LLP (“Gibson Dunn”), denied their ownership of Krono to the DOE, SCI, MOCS, the NYC Comptroller, OGS, a New York State Supreme Court Judge and the Daily News. They also falsely denied their affiliation with at least four other companies that were related to FTA. Even after FTA and their attorneys acknowledged the ownership of other companies, they continued to deny the ownership of Krono. Sevintuna and his employee, Mustafa Cem Arpaci, attempted to deceive SCI through letters specifically intended to hide Krono’s true ownership. SCI requested that FTA ask its subcontractors to cooperate with SCI’s investigation. In response, Sevintuna wrote to Arpaci (copying SCI) in Turkey requesting – rather than directing – Krono’s cooperation. Sevintuna’s letter made it appear that he was not an owner of Krono and Arpaci was not his employee. Arpaci’s subsequent letter to SCI misleadingly described Krono and its relationship to FTA. Neither letter acknowledged that Sevintuna and Krohe owned the Turkish company.

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JUDITH HEDERMAN

Hederman had a close personal relationship with Jonathan Krohe, one of the owners of FTA, dating back to at least January 2006. This investigation revealed that Hederman breached her fiduciary responsibility to the DOE concerning FTA and Krohe and that this breach benefited FTA.

E-mail messages between them indicate that Hederman supplied Krohe with information regarding the DOE’s concerns about the FTA contracts. Hederman falsely denied in sworn testimony at SCI that she had a close personal relationship with Krohe. After Hederman’s attorney acknowledged that her client’s testimony concerning her relationship with Krohe should not be relied upon, Hederman returned to SCI and was placed under oath. She asserted the Fifth Amendment privilege against self-incrimination to all substantive questions asked of her.

As a result of Hederman’s false testimony, SCI recommended, and the DOE agreed, that she be removed from any decision making regarding FTA. After being informed by SCI of Hederman’s forwarding of DOE information to Krohe, she was offered the opportunity to resign, which she accepted.

After Hederman's resignation, SCI obtained e-mails which showed further instances in which Hederman shared with Krohe internal DOE information concerning FTA.

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FALSE DECLARATIONS IN VENDEX QUESTIONNAIRES AND ASSOCIATED DOCUMENTS

As a DOE vendor, FTA and Sevintuna and Krohe were required to submit VENDEX questionnaires. None of the completed VENDEX questionnaires certified by Sevintuna on behalf of FTA and of himself, or by Krohe (on behalf of himself as an FTA principal) in connection with the DOE-FTA contracts disclosed their ownership of the Turkish firms involved with their DOE contracts, Krono and IPS Bilgisayer, Ltd. ("IPS").

In May 2010, an official of the NYC Comptroller assigned to confirm "vendor integrity" requested that the DOE explain why certain apparent affiliates of FTA were not disclosed in its VENDEXes dated March 27, 2009 which were signed and certified by Sevintuna. In January 2010, Sevintuna again certified as to the accuracy of these VENDEXes by filing a "Certificate of No Change."⁵ The official specifically referenced three companies with which Sevintuna was affiliated: ARPA Consulting, Inc. ("ARPA"), RESKTA, LLC, ("RESKTA") and FAMKRO, LLC ("FAMKRO").⁶

Ibrahim Rehawi of the DOE DCP, who was assigned to handle the NYC Comptroller's inquiry, contacted Sevintuna and advised him of it. Sevintuna, through FTA's attorney, gave false information in response. Sevintuna e-mailed Rehawi (copying Krohe) a June 3, 2010 letter written by FTA's counsel, Jim Walden, of Gibson Dunn. Addressing Rehawi concerning FTA's March 2009 VENDEX, Walden wrote: "[Y]ou questioned whether FTA disclosed all affiliated companies. It did." Walden's letter claimed that other companies referenced by the Comptroller's Office had no relation to FTA, including ARPA, FAMKRO, and RESKTA. He made no mention of Krono or IPS, the firms involved in servicing the DOE-FTA contracts, which were wholly-owned by FTA's principals. Walden's response concerning the three firms inquired about was, at best, misleading. Banking records and e-mails from Sevintuna's and Krohe's DOE accounts showed regular transactions by the three firms with FTA, Mera Consulting, LLC ("Mera"), Krono and its principals, and with Krono's manager, Arpaci.

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⁵ In the January 2010 document, Sevintuna specifically declared that the vendor and principal VENDEXes he filed in March 2009 continued "to the best of my knowledge to be full, complete and accurate." The form declaration contains a warning that "a materially false statement willfully or fraudulently made in connection with this certification may subject the person making the false statement to criminal charges."

⁶ These FTA affiliates are discussed below.

MERA CONSULTING, LLC

Walden also did not disclose another FTA affiliate not mentioned in FTA's March 2009 VENDEX (or in any FTA vendor or principal VENDEXes to date), Mera. This firm, while ostensibly owned by Krohe, was established at Sevintuna's direction in 2008. Gibson Dunn represented Mera in SCI's investigation at the time of Walden's letter. Krohe filed a certificate dissolving Mera less than a week before Walden's letter to Rehawi.

SCI's examination of invoices showed that beginning in July 2008, Mera was invoiced by four subcontracting firms – Krono, Quantanomics, EC Group International, Inc. ("EC Group") and Modis, Inc. ("Modis") – for the services of consultants previously billed to FTA for work on its DOE contract. The Mera invoices to FTA are in summary form without detailing the "Consulting & Professional Services, Project Management" or quantifying the hours or rates. They average approximately \$614,000 per month over 23 months for an approximate total of \$14.1 million.

Mera was not referenced in the DOE-FTA contracts and, as with the subcontracting firms, the DOE officials responsible for and knowledgeable about FTA testified that they had not heard of Mera.

In their first meeting with Gibson Dunn attorneys in April 2010, SCI investigators inquired about Mera. FTA's counsel replied that it was not relevant to SCI's investigation. That proved to be untrue. In an August 2008 e-mail retrieved from Sevintuna's DOE account, Sevintuna directed Randy Miller, a Florida attorney, to establish Mera as an "S-corp. LLC,... so it can pay salaries."⁷ Although the instructions were from Sevintuna, he told the attorney that Krohe was "to be the 100% owner" of Mera.

Positioned between FTA, the DOE vendor, and the firms delivering the contracted services, Mera could be construed as another prohibited subcontractor. Sevintuna was specifically alerted to this by Miller, FTA's attorney. While negotiating the terms of the 2009 DOE-FTA contract in November 2009, Miller wrote to Sevintuna in an e-mail to his DOE account which was retrieved by SCI investigators:

Tamer, is FTA going to continue to pay Mera? I believe that the BOE may take the position that there should have been a written contract between FTA and Mera that was approved by the BOE. I know that Mera is an affiliate, so to speak, of

⁷ An "S-corp.," for federal income tax purposes, is a corporation (here, an "LLC" or Limited Liability Company) that elects to be taxed under Subchapter S of Chapter 1 of the Internal Revenue Code. 26 U.S.C. § 1361.

FTA, but the BOE could take the position that Mera is a sub-contractor since it is a separate entity. Is this something that you are going to discuss with the BOE?
Randy

Sevintuna's DOE account did not show a reply message.

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FALSE FILINGS WITH OGS

Two months after FTA's belated, incomplete and untrue letter to Rehawi of DCP and the revised VENDEX submissions, Sevintuna and his company reverted to form in a similar certified questionnaire filed with OGS. As an OGS vendor, FTA was required to file a completed New York State Vendor Responsibility Questionnaire, and did so on August 24, 2010. It bore Sevintuna's notarized apparent signature. He checked "No" in response to the question of whether FTA had any "Associated Entities."⁸ Notwithstanding SCI's active investigation of FTA, of which Sevintuna was well aware, and for which the company and its principals had counsel, Sevintuna checked "No" to multiple questions concerning investigations. These included whether FTA was "the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct." (Emphasis in original).

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OTHER UNDISCLOSED FTA AFFILIATES

In addition to Mera, Krono and IPS, FTA and its principals failed to disclose, as required, three other affiliated companies: ARPA, RESKTA and FAMKRO.

ARPA was established in September 2008 with Sevintuna as its sole director. He remained listed as such in ARPA's most recent annual report filed in March 2011. Sevintuna was a signatory on ARPA's bank accounts, which regularly received large transfers from FTA's and Mera's accounts at the same bank. Through May 2011, there were approximately 39 regular wire transfers from ARPA to Arpaci, Krono's manager, in five-figure sums. Money from the ARPA account was also transferred to FTA, and ARPA also received four checks totaling \$166,000 from FTA.

Despite this, Walden's June 2010 letter described ARPA as an "unrelated company" to FTA, and stated that "Sevintuna does not draw any income or make any managerial decision for ARPA. ARPA does not provide any work or services under a DOE or New York City contract. ARPA has never provided any services to FTA."

⁸ The instructions to the OGS Questionnaire define "Associated Entity" as including "any business entity or organized group of principal owners or officers holding 50% or greater ownership interest in the Reporting Entity," in this instance, FTA.

As to RESKTA and FAMKRO, Walden's letter claimed that they were "wholly owned by Krohe." He stated that:

RESKTA was originally jointly-owned by Sevintuna and Krohe until Sevintuna conveyed his ownership in satisfaction of a debt in January 2008. RESKTA has been inactive since August 2008 after its assets were assumed by FAMKRO. Neither FAMKRO nor RESKTA have ever provided any work or services under a DOE or New York City contract.

SCI determined that RESKTA was established in Florida in April 2007. An (unsigned) RESKTA operating agreement transmitted that month on their DOE e-mail accounts identified Sevintuna and Krohe as members with equal ownership interest in the firm. They are identified as "Managing Members/Managers" of the firm in annual reports filed with the Florida Secretary of State through March 2011. According to bank records, Sevintuna was the sole signatory at the time the RESKTA account was established, and remained so through at least May 2011. From September 2007 through January 2008, approximately \$220,000 was transferred from FTA's account to the RESKTA account.

Nothing in RESKTA's bank records suggests that Sevintuna transferred ownership of his share of the company to Krohe in January 2008. Sevintuna's signature appears on the firm's checks more than six months later, and he continued to direct the operations of RESKTA more than a year after (according to Walden) he gave his share of the company to Krohe.

FAMKRO was established in Florida in March 2009. Sevintuna's DOE e-mail account shows that, as with Mera, FAMKRO was established per Sevintuna's direction to Miller, even though Krohe was the nominal owner of the firm. Krohe is identified as the manager of the company in annual reports to the Florida Secretary of State through March 2011.⁹ Banking records obtained from HSBC show that Krohe and Sevintuna have signature authority over its accounts. FAMKRO's account received regular wire transfers from Krono, ARPA, Mera and FTA. In October 2010 FAMKRO received \$1.3 million in two transfers from FTA. During the same month, more than \$1.63 million was withdrawn from FAMKRO's account per Sevintuna's direction.

Sevintuna and Krohe regularly used DOE resources to conduct their private business concerning ARPA, FAMKRO and RESKTA – another violation of the DOE-FTA contracts. Apparently, neither FTA nor its affiliated companies (in the United States) maintained business offices, and instead used private mailboxes as their stated addresses. Sevintuna and Krohe were provided with free offices and DOE e-mail

⁹ In his e-mailed instructions to Miller, Sevintuna proposed that he (Sevintuna) be listed as a manager of FAMKRO, but he does not appear in the company's Florida filings.

addresses to service the DOE-FTA contracts. Numerous messages retrieved from their DOE e-mail accounts show that they regularly communicated during business hours concerning the transactions of RESKTA, FAMKRO, ARPA and the other businesses described herein.

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KROHE CLAIMED \$74,000 IN CLIENT ENTERTAINMENT EXPENSES WHEN DOE WAS APPARENTLY SOLE CLIENT

Monthly expense account spreadsheets which Krohe submitted to Sevintuna listed dates and corresponding expenses for dinners and lunches with unnamed clients and “client entertainment.”¹⁰ Krohe’s claims for these expenses for 12 months ending in 2009 totaled more than \$74,000.¹¹ The “engagement” listed for each event is “Web Development,” a term used consistently by FTA in invoices to the DOE. FTA and DOE employees told SCI investigators that they were not aware of other FTA clients during this period. Eleven of the client dinners claimed by Krohe cost more than \$1,000; one such meal was over \$3,000.¹² DOE officials who dined with Krohe testified that they paid cash to Krohe or Sevintuna to reimburse their own portion of the meal tabs. When SCI investigators asked Krohe and Sevintuna if they provided anything of value to a public servant in connection with the DOE-FTA contracts, each asserted the Fifth Amendment privilege.

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CONCLUSION AND RECOMMENDATIONS

SCI has concluded that FTA lied about its qualifications to be awarded the 2005 contract with the DOE. FTA then violated the terms of that contract and of the 2009 contract. FTA and its owners, Sevintuna and Krohe, engaged in prohibited subcontracting with consultants and ignored the requirement that consultants work on-site at a DOE facility. They obtained remote access to secure DOE websites by disguising the need for such access. They set up a company, Krono, in Turkey, in order to bill themselves at a rate commensurate with what the consultants at the DOE facility were being paid, even though the consultants in Turkey were being paid at least 500 percent less. SCI estimates that this fraud cost the DOE more than \$6.5 million. In addition,

¹⁰ The spreadsheets did not identify the restaurants or venue of these events, nor were there attached receipts.

¹¹ SCI did not discover any evidence that these expenses were submitted to the DOE for reimbursement.

¹² Krohe’s client expenses included ticket subscriptions to the New York Mets and the Tampa Bay Buccaneers.

FTA billed the DOE approximately \$2.7 million for other overseas consultants. Sevintuna and Krohe, personally and through their attorneys, lied about their ownership of Krono to the DOE, MOCS, SCI, the NYC Comptroller, the New York State OGS, a New York State Supreme Court Judge, and the New York Daily News. They also falsely denied their affiliation with at least four other companies that were related to FTA. When questioned under oath, they asserted the Fifth Amendment to every question.

It is the recommendation of this office that Tamer Sevintuna, Jonathan Krohe, Mustafa Cem Arpacı, Swaroop Atre, Kabir Rekhi, and any company associated with these individuals, be made ineligible for work with the DOE and that this matter be considered should they attempt to do business or seek employment with the DOE in the future.

SCI has concluded that Judith Hederman, a high-level official in the DFO, who had significant oversight concerning the 2005 DOE-FTA contract and was the Chancellor's Designee to oversee FTA's 2009 DOE contract, materially assisted FTA by providing Krohe with information about the DOE's concerns regarding FTA and about possible steps the DOE might take concerning the FTA contract. Hederman first lied to SCI investigators when questioned under oath and then asserted the Fifth Amendment.

It is the recommendation of this office that Judith Hederman be made ineligible for work with the DOE and that this matter be considered should she apply for any position in the New York City school system or with one of its vendors, in the future.

SCI has concluded that the DOE officials charged with overseeing the DOE contract with FTA failed in that responsibility. They claimed not to know of the prohibition against subcontracting or not to know of any subcontractors. They claimed not to know that the consultants were required to work at the DOE facility. They claimed not to know that the remote access to secure DOE websites was from overseas locations. They claimed not to know of any subcontractors working from Turkey or India although they had contact with consultants in those countries.

The DOE cannot allow consultants to have free reign over DOE projects that cost millions of dollars. DOE officials who are charged with oversight of the projects must be held accountable for failing to supervise them. It is the recommendation of this office that with respect to requirements contracts, the DOE establish a protocol to be triggered when a contract exceeds its estimated cost by more than a percentage specified in advance. In such cases, a disinterested DOE official (one whose work responsibilities are not affected by the contract) should be assigned to thoroughly review the matter, and to make specific, documented recommendations to the Chancellor.

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We are referring this matter to the United States Attorney's Office for the Southern District of New York, and to the New York County District Attorney's Office.

We note that the conduct described here may violate the conflicts of interest provisions of the New York City Charter which is administered by the New York City Conflicts of Interest Board.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. Should you have any inquiries regarding the above, please contact Deputy Commissioner Gerald P. Conroy, the attorney assigned to the case. He can be reached at (212) 510-1486. Please notify Deputy Commissioner Conroy within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding this investigation. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By: _____
Gerald P. Conroy
Deputy Commissioner

RJC:GPC:gm

c: Michael Best, Esq.
Theresa Europe, Esq.