

**SIR Report
FOR BOARD CONSUMPTION ONLY**

I hope this finds all of you and yours well and coping with the challenges of the pandemic.

As you know, the tenure of our two Scholars in Residence expires this year and we have been actively seeking applications for a replacement(s).

Historical Context

This selection process will result in our third SIRs for this still relatively new program. This IAM program began with Professor Hal Abramson as the inaugural SIR and who assisted IAM in designing the program. The second SIRs are the current ones, Professors Lela Love and Dwight Golann. For this third selection process as IAM builds the program and especially the program's reputation, I think it is important to select candidates that are senior in the field and who will bring stature in the early years of the program in order to attract a highly qualified pool of candidates as we move forward with this program in the years ahead. Professor Abramson is in accord on these points.

Process

I reported earlier to this Board that our search began in the Spring with postings on several academic web sites. It was a thoughtful and methodical process and continued with my solicitation a month or so later of nominations/suggestions from all of our membership, some of who replied with proposed names. Once I received these recommendations from our membership, I followed-up individually with each such suggested candidate by making a specific request of each of them, if they were interested, to make application per an attached detailed process mirroring what we had originally posted.

I pursued several of these candidates additionally as we wanted to make certain that this was as fulsome a process as possible with particular attention to diversity. Three or four of these more intensive follow-up were aimed at women who came highly recommended and whose bios seemed potentially well qualified.

Another academic posting took place in late Summer and the application exercise closed on September 30. Since then I scheduled follow-up personal interviews with every applicant. The interviews were intense and engaging and each lasted for a duration of at least an hour...in some cases more.

There were five applicants/finalists, one of which was a women. Three applicants applied spontaneously, without any promoting or follow-up by me. The other two were the result of my individual prompting. None of the women I followed up with applied, despite my various contacts with them. Having done this for a while and having worked hand in hand with all past SIR's, I should observe that an applicant's submitting herself/himself for consideration on a voluntary/spontaneous basis without prompting is perhaps a leading indicator of future reliability, which is important for obvious reasons.

In any event we ended up with a very good roster of candidates: Art Hinshaw at ASU; Sarah Cole at Ohio State; James Stark at UConn; Doug Frenkel at UPenn; Sukh Singh at Pepperdine. There are no applicants from outside North America despite my soliciting the total membership of IAM. That said, Professors Frenkel and Stark have considerable experience and reach beyond the US given their extensive work with The Hague and UN in the case of the former, and foreign scientific research in the case of the latter.

Professors Frenkel and Stark are longtime collaborators, having written several texts and articles together and having conducted numerous well-known studies together. Professor Frenkel graciously offered to be considered only as a co-scholar with Prof. Stark and not as a standalone and absent such consideration as a dual scholar and given their deep friendship, he kindly asked not to be considered at all.

It is important to note that all of these candidates have applied at different career stages, although there are only two who I would characterize as senior in the ADR field, Professors Stark and Frenkel. This characterization is of note in the most positive sense as in the academic arena much good comes with such seniority. Historically and contextually *vis a vis SIR*, It has been an important criteria and part of the program as envisioned by the original SIR.

I was assisted in my efforts throughout by Hal Abramson, our first Scholar and who has a firm grasp of criteria and quality; and in my vetting and recommendation by both Hal and Ben Picker who is a trusted hand and mind and has deep experience judging academic work by virtue of his work with CPR and other organizations. Ben, like Hal, weighed in on comparison and final recommendation.

Recommendation

We three are unqualifiedly unanimous in our recommendation to this Board of Professors Stark and Frenkel as co-SIR's for the coming biennium. In our experienced opinions they stand by far ahead of this otherwise very distinguished field of finalists. I have included their bios for your review although they only tell part of the story. In terms of basic comparative scholarship and tenure alone - two factors which, as suggested above, should be considered to be core criteria - they are by good measure at the head of this class and there is still so much more to recommend them.

Here are a few compelling reasons why these two stand out:

- Their depth of scholarship and tenure in mediation is unparalleled in this field of applicants and at the very top tier of the field in general. They are well-established, distinguished scholars and age in this instance makes a positive difference given their deep conceptual and experiential collective wisdom. They have made meaningful contributions to the development of mediation.
- Their application materials were thoughtfully thematically focused on IAM and how to impart and gain valuable practical data and findings to and from the IAM membership.
- They bring a unique focus on mediation to the table, undistracted by most academic administrative obligations.
- Similarly, they are unhindered by time/work obligations; unlike the other applicants who are still in the "career development" state of their careers.
- Both are intently focused as mediation "realists" and practices that involve actual interventions – what works and what doesn't and what the least effective practices actually are, as they have conducted studies in the area. We would have a unique opportunity to

learn about ourselves and those we work with regarding such things as party role bias and specific interventions.

- We, and they would learn more about our field through work/study *they have actually accomplished*. Subjects such as the role of fear, generosity in negotiation, the dynamic of “time-limited” mediation participants, including us as mediators.
- They bring a unique international reach as is evidenced by their bios. Important feature for an “international” academy.
- Their work and ideas are informed by “realism” based in actual social and scientific basis – eg. which common neutral practices and professional “beliefs” are supported by social science evidence?
- They are exemplary in their scholarly research and writing. For example, their 2013 award-winning *The Work of Mediators and Empirical Studies of Persuasion* (Ohio State Journal of Dispute Resolution) – studying the persuasive efficacy of mediation practices - received the best original work award from CPR. Prof. Frenkel also received this award individually on another work which is rare. (Hal is one of the other exceptional examples in this regard).
- They also co-authored a leading and widely used mediation textbook. In addition they co-write about perception distraction of lawyers in evaluation. *Improving LawyerJudgement: Is Mediation Training De-Biasing?* (Harvard Negotiation Law Review).
- They have worked extensively with International scholars in studying how notions of “fairness” affect how we mediate and how lawyers counsel clients.
- The list goes on and...they have done this longer than anybody, including us (since 1981) and I suggest once again that in this instance that is a virtue given their continuing vitality and seemingly leviathan energy.
- Finally, they get along, which I can tell you from personal experience as one who has a foot in the academic world, is not the case with all academics. Their work together over the decades has yielded an enormous mutual respect, ability to produce joint scholarship (in controversial areas), write and present in “one voice” and find a vital friendship that is more than comfortable in challenging each other.

Conclusion

As noted at the top, this next biennium is important for the SIR program. Hal agrees that this term is relatively critical and that compromises - which I realize is how many Board decisions are made, whatever the Board or how well-intentioned- in this area in particular may well hollow out an otherwise successful tenure and future. Here is some of Hal’s thinking in his own words:

"You did a terrific job identifying and screening applicants for the SIR program. I am impressed by your process and delighted by the likely outcome.

I hope the board will appreciate how important it is in the early years of the SIR program to select people that send the message that this is a highly selective process. The people who were not selected will surely be impressed with whom IAM selected. For the fourth selection process (next one), I anticipate that there will be even more applicants [given the quality of these].

At the board meeting, will you be selected to continue to chair the SIR committee? I hope so. If you will not be, will you have some say over who is selected in order to be sure the person selected will be as dedicated as you to the success of a program that connects scholars with the distinguished mediators of IAM? Doug and Jim also will need your guidance"

After thorough consideration, I highly recommend that this Board approve the recommendation of Professors Frenkel and Stark as the third SIR's. This recommendation is unconditionally supported by both Hal Abramson, our original SIR and Ben Picker. Importantly, Hal is also familiar with all applicants.

We hope you can come to agree with what we think is the considered wisdom of the recommendation.

Jerry Weiss, Chair of SIR