

4760 Tamiami Trail N. Suite 1A
Naples, Florida 34103



www.watchdogcity.com
(239) 449-8045

April 18, 2013

Sent via email to Dennis.MacKee@sbafl.com

Mr. Dennis MacKee
Communications Director
Florida State Board of Administration

Dear Mr. MacKee,

If SBA has a specific fact-based request for a correction to one of my stories, then I welcome correcting errors of fact.

Your April 10 response is inadequate. SBA is violating the Florida public records law by allowing redaction of placement agent fee information, contrary to Florida Statute 215.4401 (7)(j), which specifically designates this information as public record.

If SBA is now asserting some sort of grandfathering claim for records filed before 2011 as you indicate in your April 10 letter, please state specifically what in the law allows this.

As noted in my original Oct. 8, 2012 request: "If you claim any statutory exemption applies to all or part of the records requested, please state in writing, the basis for the exemption claimed (including the statutory citation), as required by Section 119.07 (2) (a), Florida Statutes."

The Florida Legislature opened these records to the public in 2011 under 215.4401(7)(j).

There is no grandfathering exemption articulated in the law.

(See attached list of 29 firm filings that redact fee dollar amounts or fee percentages so as to make placement agent compensation information unknowable by a member of the public reviewing the documents.)

The written records of my communications with SBA speak for themselves about my public records requests of Oct. 8, 2012 and Oct. 23, 2012.

In fact, I notified SBA in writing of my concerns that my public records request of Oct. 23, 2012 — for basic alternative investment information that is designated as public record by law — had not been satisfied on Dec. 19 and again on Feb. 22. (See attached emails)

Prior to those dates, I had only received one batch of information on Nov. 14.

Very little information is public record about the \$18.7 billion in alternative investments made with taxpayer dollars on behalf of Florida's defined benefit pension fund. The 16 years worth of year-end cash distribution data that SBA continues to withhold is critical to evaluating the performance of the \$17.9 billion in open and active alternative investments (as of June 30, 2012.)

After stringing me along for more than four months while I waited for information that the SBA said would be forthcoming for free in a matter of weeks, SBA then sought to erect an unreasonable and retaliatory barrier on March 11 in response to my Oct. 23, 2012 public records request by estimating fees totaling more than \$1,000.

If SBA is now saying it can provide the remaining information to satisfy my Oct. 23, 2012 public records request for basic information about alternative investments, item a and item e, for a minimal charge or for free, as SBA originally agreed, then I welcome the response.

The 16 years worth of cash distribution data for SBA alternative investments should be readily available and accessible in the SBA accounting system. Based on SBA's responses to me to date, year-end cash distribution amounts (as requested in item e), that are public record by law, can only be determined for 5 years.

SBA knows, or should know, that this cash distribution information is critical for an independent analysis of investment performance.

You state that "under public records laws, the SBA is not required to create a record, but we agreed to do so in some instances in order to facilitate your requests."

Electronic records in your accounting database are public records. The law, F.S. 119, says electronic records are public records.

SBA has failed to provide the identities of the principals involved in these alternative investments and the addresses of the firms. (Item a of my Oct. 23, 2012 request. SBA did provide vintage year on Nov. 14, 2012)

By your April 10 response, is SBA saying it can't readily identify the principals involved in the management of billions of dollars of public money when SBA publicly states that it conducts rigorous scrutiny and due diligence on these managers? Your suggestion to consult the Securities and Exchange Commission web site for the identities of principals and the addresses of these firms is not adequate.

Go-look-it-up-on-the-SEC-web-site is not a valid response by a public official for withholding information under Florida's public records law, F.S. 119.

The intent of the Florida Legislature is clear: The public has a right to know who the principals controlling these private alternative investments are as specifically articulated in 215.4401 (7) (a).

Your assertion that my public records requests "evolved" is not supported by the written correspondence.

My Oct. 23, 2012 request tracked — verbatim — the language of statute 215.4401 (7) on items, a,b,c,d,e,f,g,h, and at no point did I ever communicate to SBA that I did not want any of the requested information.

Placement Agent Disclosures

SBA is violating the Florida public records law by allowing redaction of placement agent fee information,

contrary to Florida Statute 215.4401 (7)(j), which specifically designates this information as public record.

Redaction here means blacking out information so as to make the **fee dollar amount** or the **fee percentage amount** concealed so the compensation is unknown to an inspector of the disclosure document. If a firm redacted a description of compensation, but left the dollar amount or percentage open, I did not count that as redacted.

As noted above, the SBA did not cite any statutory basis for withholding placement agent fee records based on grandfathering claims in any of its responses to my Oct. 8, 2012 public records request.

(See attached list of 29 firm filings with redacted placement agent fee information. Two of these firms, as noted on the attached list, may or may not be in compliance. Four firms did not disclose what compensation they paid to placement agents, even to SBA. SBA asserted in written communications with me that three of these four firms were not required to disclose fees even to SBA and that the inspector general or compliance department agreed to waivers of the placement agent disclosure policy for these three firms. SBA said it is in process of getting the fourth firm to comply with revealing placement agent fees as I noted in my story.)

Significantly, the SBA did not appear to enforce the public records law even though some firms indicated SBA had such a role in their declarations that certain information be designated as confidential proprietary business information. For example, some firms claiming confidentiality said if SBA decided to release information contrary to their claims of confidentiality, these firms requested 10 days notice prior to the release of information.

Of note, legal counsel from at least two firms with investments prior to the 2011 amendment that designated these public records as open, namely Silver Lake Technology LLC and Square Mile Capital Management LLC, interpreted in their declaration letters that 215.4401 required them to disclose fees paid to placement agents as public record. These two firms may or may not be in compliance because although they redacted fee descriptions, both firms provided estimates of the total fees they paid their placement agents in connection with SBA business. Also, SBA did not provide me with the actual disclosure forms for these firms but provided undated, redacted attachments to the declarations.

I will address specific points in your April 10, 2013 letter in greater detail below:

SBA: “Your request for placement agent disclosure certifications resulted in 50 responsive records indicating the use of a placement agent. Of those records, 37 were executed prior to the disclosure requirement under Section 215.4401(7)(j), Florida Statutes relative to placement agents becoming law. Twenty-seven of the 50 responses disclosed fees or compensation paid, although other pieces of information may have been redacted such as the identity of the placement agent, services provided, or other operational information related to the fund or placement agent.”

Please provide me with a copy of your document that shows the back-up detail for this analysis. It does not match my review of the records provided by SBA in document tranches 1, 2, 3 and 4 in response to my Oct. 8, 2012 request for placement agent disclosure forms.

As stated above, please see the attached list of 29 firm filings that have redacted **fee dollar amounts** or **fee percentages** so as to conceal compensation arrangements with placement agents.

Florida statute 215.4401 (7)(j) states that proprietary confidential business information does not include:

j. A description of any compensation, fees, or expenses, including the amount or value, paid or agreed to be paid by a proprietor to any person to solicit the board to make an alternative investment or investment through an alternative investment vehicle. This does not apply to an executive officer, general partner, managing member, or other employee of the proprietor, who is paid by the proprietor to solicit the board to make such investments.

If a firm disclosed the dollar amount or percentage, but blacked out the description, then I did not count it as redacted for purposes of reporting in my story. However, the statute includes “description” language so there may be more filings that have been improperly redacted.

Also note that SBA did not provide signed and dated forms for some firms but provided documents or email exchanges.

It is not clear, based on SBA’s records provided to me, whether these firms provided signed forms and SBA lost them or if no such signed forms were required of certain firms. SBA represented that it had satisfied my request and did not claim public records exemptions on additional documents in its possession.

For example, SBA did not provide a signed declaration form for Crescent Capital Group but provided an undated redacted attachment. As another example, no signed form was provided for Silver Lake Technology LLC but SBA provided a redacted attachment with no identifiable date.

In the case of two filings, CarVal Investors filed two forms disclosing fee percentage amounts, but I did not count this as disclosure because CarVal blacked out the name of the placement agents that received payment.

I called these “firms” in my story for ease of understanding to the lay person but they are partnership entity disclosure filings. Although SBA is aware of overlapping relationships, these are not necessarily apparent by entity to a member of the public reading the forms. For example, SBA called one file name “Freeman Spogli” but this did not correspond to the name of the entity whose executive signed the form. (This form was not redacted)

■ **SBA delayed producing placement agent disclosure forms.**

The SBA took three months to fulfill my Oct. 8, 2012 request related to placement agent disclosure forms.

For example, a letter from alternative investment firm Bayview Asset Management indicates that the firm was contacted by the SBA about my public records request on Dec. 14, 2012.

Why did SBA apparently take more than 8 weeks after my Oct. 8, 2012 public records request to contact this firm? The SBA charged me upfront \$242 for staff time to check with firms on whether they wanted to claim information as confidential and redact it before it would proceed with my request, a practice the First Amendment Foundation calls questionable.

■ **Your assertion that SBA did not know of my concerns about delays on the Oct. 23, 2012 request is not factual.** (See attached emails)

I communicated in writing via email my concerns to SBA that my public records request of Oct. 23, 2012 had not been satisfied on Dec. 19, 2012 and again on Feb. 22, 2013. By Feb. 22, 2013, SBA had failed to respond

with any additional records since Nov. 14, 2012. I have only communicated with you or Ms. Bowers in writing on any matter.

For example, what follows is the text of my Dec. 19, 2012 email to Ms. Bowers:

“Hi Ms. Bowers,

The request dated Oct. 23, 2012 is not satisfied. The statement of cash flows, for example is missing alternative investments that have been listed in past annual reports within the past five years, but closed. In your communication with me you said that the SBA would be preparing a responsive request and compiling the information and waiving the fee for this because of its usefulness to the SBA staff. Please proceed with the compilation.

Thank you,
Gina Edwards”

■ **Your assertion that my Oct. 23, 2012 public records request “evolved” is misleading and not accurate.**

At no time did I communicate to SBA that I did not want any part of my original Oct. 23, 2012 request, items a, b, c, d, e, f, g, h, and i. My public records request tracks the language of statute 215.4401 (7) items a through i verbatim.

Three days after making my request on Oct. 26, I offered to back up the start date of my Oct. 23, 2012 records request from 1992 to 1989 to correspond to the earliest open date of SBA private equity investments. As communicated, I offered this to make it easier on SBA which routinely tracks these investments on a “since inception” basis.

■ **Your characterization of my Oct. 23, 2012 request as “extensive” and “covering 25 years for hundreds of investments” is misleading.**

Based on the records provided, SBA has only closed out 6 of 195 alternative investments based on your March 11, 2012 letter to me. The 189 *open* alternative investments include some that date back to 1994. SBA knows, however, that approximately 80 of these investments have been committed to by SBA since late 2008, when Mr. Williams returned to SBA.

In addition, SBA routinely tracks and accounts for performance of these alternative investments on a cumulative “since inception” basis. So the basic accounting information I have requested about these long-term investments is regularly accessed by necessity by SBA.

How else could SBA staff produce “since inception” reports to track performance?

Items b, c, d, e, f, g, h and i of my request should have been readily accessible and able to be pulled from SBA’s accounting database in a few hours. If this critical basic financial information to account for and track public money can’t easily be pulled and accessed by SBA, again, why not?

■ **Your statement that we had an “agreed upon goal to provide me with available, responsive, non-exempt records with minimal or no cost” to me is not accurate.**

I did not agree to any such goal. I made a public records request on Oct. 23, 2012 and SBA agreed to waive the fees for my request. I thanked SBA.

■ **You state: Item E was specifically addressed in Nell Bowers letter of March 11, 2013 which stated: “If you are requesting AI reports prior to 2005, they will have to be prepared as outlined in the referenced statement. For the AI reports from 1989 to 2004, we estimated 18 hours of staff time at a charge of \$434.64. If you are requesting the point-to-point cash flow chart to be prepared on a fiscal-year-end-basis, that estimate is 25 hours at a charge of \$603.25.” (The point-to-point cash flow chart previously provided to you gave enough detailed data that the time periods could be formatted by the user.)**

The point-to-point cash flow chart provided to me in PDF format by SBA did not provide information about cash *distributions*. Again, my request did not change from the original Oct. 23, 2012 request, which tracks the language of F.S. 215.4401 (7) a-i verbatim.

I never requested that the SBA re-create certain of its own reports. I am asking for the distribution information on a fiscal year-end basis for each alternative investment as is designated as public record under F.S. 215.4401 (7) (e). This information should be readily available in the SBA’s accounting system that tracks this public money.

The combined reporting by SBA in documents made publicly available on the SBA web site and to the Investment Advisory Council as “net contributions and transfers” makes outside performance analysis and scrutiny impossible.

Of note, the chairman of the Investment Advisory Council, Martin Garcia, related via memo in December that IAC members want more substantive information from SBA staff.

■ **You state: “I regret that our response to your extensive request elicited concern on your part as it appears by your own report that the items you requested have either been provided to you or made available to you at a reasonable cost.”**

The fee estimates by SBA in the March 11, 2013 are not reasonable.

While you may consider \$1,037 to be a minimal charge, it is not a minimal charge to a citizen or journalist seeking access to public records. Taxpayers are already paying your salaries.

■ **You state: “We have a record of addressing your specific inquiries so as to provide you a better understanding of the topics and our processes, but have no record of your concerns related to our responses to your requests.”**

Again, my concerns related to my public records requests were expressed in writing on Dec. 18, 19 and Feb. 22. (As attached)

You have not addressed my inquiries as a reporter in a cooperative manner. After one cordial phone interview with John Kuczanski in which I made a public records request, SBA Communications personnel then related that SBA would not grant me any oral interviews and would only accept questions in writing. This form of communication does not allow for ready follow-up questions and instead drags out the reporting process significantly.

Courts have frowned upon retaliatory barriers erected against specific reporters by government bodies when the retaliation is aimed at silencing criticism of government.

Further, as part of the reporting process, I asked for cash flow information detail on private equity investments in writing in an email to you on Oct. 11, and you did not respond. I noted in an Oct. 22 email to you that you

didn't respond regarding the cash flow information, namely the detail underlying the "since inception" private equity investment report.

Subsequently, I submitted my Oct. 23, 2012 public records request asking for the cash flow information, namely cash contributions and cash distributions for each alternative investment.

■ **You stated: "Had we been made aware of your specific concerns about the few issues you have identified, we would have attempted to address them."**

Again, I made my concerns known in writing on Dec. 19 and again on Feb. 22 when I continued to ask about the status of my Oct. 23, 2012 public records request in emails to Ms. Bower.

In conclusion, it is SBA's responsibility to abide by the public records law and adequately answer my public records requests.

Respectfully,



Gina Edwards
Watchdog City Press reporter

cc:
Honorable Gov. Rick Scott
Honorable Chief Financial Officer Jeff Atwater
Honorable Attorney General Pam Bondi
Ash Williams, SBA Executive Director and CIO
Pat Gleason, Special Counsel for Open Government, Office of the Attorney General
First Amendment Foundation President Barbara Petersen
First Amendment Foundation General Counsel Jon Kaney
Media

Attachemnts:
Chart of Alternative Investment Firms Redacting Fee Information
Dec. 19, 2012 Email from Gina Edwards to SBA's Nell Bowers
Feb. 22, 2013 Email from Gina Edwards to SBA's Nell Bowers
SBA April 10, 2013 letter to Gina Edwards
Gina Edwards Public Records Request of Oct. 23, 2012
Gina Edwards Public Records Request of Oct. 8, 2012
F.S. 215.4401
SBA March 11, 2013 letter to Gina Edwards

Alternative Investment Firm Placement Agent Disclosure Filings where fee dollar amounts or percentages paid to placement agents have been redacted contrary to 215.4401(7)(j) in response to Oct. 8, 2012 Watchdog City Press reporter public records request

1	3i Buyouts PAD	Vague. No Percentage.
2	Bayview Asset Management LLC	
	CarVal Investors LLC	Placement Agent Firm Name redacted so fee meaningless.
3	CarVal Investors LLC	Placement Agent Firm Name redacted so fee meaningless.
4		
5	Crescent Capital Group	
6	Energy Capital Partners	
7	Falcon Investment Advisors	
8	Francisco Partners Management III	
9	Global Infrastructure	Fee info withheld from SBA
10	Gores Group LLC	
11	Green Equity Investors VI L.P	
12	Kelso & Co.	
	Knight Vinke Asset Management	
13	(File name is XT Capital)	
14	Molpus Woodlands Group LLC	
15	New Mountain Capital	
16	P2 Capital Partners LLC	
17	PAI Partners	
	Platinum Equity II Amend	Vague. Says fee paid, not what.
18		
19	Prohibitias Partners	
20	Red Kite, RKGP Ltd.	
	Silver Lake Partners IV L.P.	Possibly in compliance. Fee description is redacted but estimate of fee amount is supplied. No form.
21		
	Square Mile Capital Management LLC	Possibly in compliance. Fee description is redacted but estimate of fee amount is supplied.
22		
23	Stone Point Capital LLC	
	Stone Point Capital LLC on behalf of	
24	Trident V L.P.	
25	Triton Fund IV	
26	Varde Partners	
27	Willis Stein & Partners II L.P	Fee info withheld from SBA
28	Willis Stein & Partners III L.P	Fee info withheld from SBA
29	Willis Stein III	Fee info withheld from SBA



Gina Edwards <ginavossedwards@gmail.com>

Re: public records request alternative investments

1 message

Gina Edwards <ginavossedwards@gmail.com>

Wed, Dec 19, 2012 at 6:08 AM

To: Bowers_Nell <Nell.Bowers@sbafla.com>

Hi Ms. Bowers,

The request dated Oct. 23, 2012 is not satisfied. The statement of cashflows, for example is missing alternative investments that have been listed in past annual reports within the past five years, but closed. In your communication with me you said that the SBA would be preparing a responsive request and compiling the information and waiving the fee for this because of its usefulness to the SBA staff. Please proceed with the compilation.

Thank you,
Gina Edwards

On Tue, Dec 18, 2012 at 4:11 PM, Bowers_Nell <Nell.Bowers@sbafla.com> wrote:

Ms. Edwards:

I am aware of two open requests for you, the first being your request dated August 8, 2012 for Placement Agent Disclosure Certifications. Regarding that request, a third tranche has been put in outgoing mail to you today. A final tranche is expected to be released after the holidays.

In reference to your second request dated October 23, 2012, you e-mailed that you would review the records provided to you to determine if they satisfied the specifics of your request and that you would get back with us. We were waiting to hear from you on this request as to how you wish to proceed.

Sincerely,

Nell N. Bowers, Paralegal

Office of General Counsel

State Board of Administration

1801 Hermitage Boulevard

Tallahassee, FL 32308

nell.bowers@sbafla.com

From: Gina Edwards [<mailto:ginavossedwards@gmail.com>]

Sent: Tuesday, December 18, 2012 1:53 PM

To: Bowers_Nell; MacKee_Dennis

Subject: public records request alternative investments

Ms. Bowers,

Can you provide an update on the status of my public records requests on alternative investments?

Gina Edwards
Watchdog City Press

Disclaimer: This communication may contain confidential, proprietary, and/or privileged information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy.

Additionally, please note that Florida has a very broad public records law. This communication (including your email address, any attachments and other email contents) may be subject to disclosure to the public and media.



Gina Edwards <ginavossedwards@gmail.com>

Re: public records request alternative investments

1 message

Gina Edwards <ginavossedwards@gmail.com>

Fri, Feb 22, 2013 at 3:28 PM

To: Bowers_Nell <Nell.Bowers@sbafla.com>

Cc: MacKee_Dennis <Dennis.MacKee@sbafla.com>

Ms. Bowers,

Please update me on the status of my Oct. 23, 2012 public records request regarding alternative investments. In reviewing the information that has already been transmitted to me in Tranche 1, I need some clarification on the response provided and what the SBA is still preparing. Do you have the AI reports still coming from years prior to 2007? I have only received "Tranche 1" by mail to date.

In your letter to me you stated that it is the SBA's position that you have satisfied responses to items d & e of my request.

(See below for reference)

d. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration from each alternative investment vehicle.

e. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration plus the remaining value of alternative-vehicle assets that are attributable to the State Board of Administration's investment in each alternative investment vehicle.

However, the Point-to-Point Cash flow report doesn't appear to contain cash distributions. And, the Q2 AI reports show distributions reported on a "since inception" basis -- as opposed to reporting on a fiscal year-end basis.

Can you provide the cash distributions received by the SBA from each alternative investment vehicle on a fiscal year end basis as described in items d and e of my Oct. 23, 2012 request?

Also, I am enclosing your estimate. It would be helpful to me to know what portion of the work plan as estimated is completed.

Please contact me as soon as possible regarding the status of this public information.

Best regards,
Gina Edwards
Watchdog City Press

239-514-1336

cell: 239-293-3640

On Wed, Dec 19, 2012 at 3:09 PM, Bowers_Nell <Nell.Bowers@sbafla.com> wrote:

Ms. Edwards:

The management fees and costs data portion of your request is in process. The data request spans 20 years and will be considerably voluminous in size. Once the records are extracted and compiled, we will provide the responsive records to you.

Sincerely,

Nell N. Bowers, Paralegal
Office of General Counsel
State Board of Administration
1801 Hermitage Boulevard
Tallahassee, FL 32308
nell.bowers@sbafla.com

From: Gina Edwards [<mailto:ginavossedwards@gmail.com>]
Sent: Wednesday, December 19, 2012 6:09 AM
To: Bowers_Nell
Subject: Re: public records request alternative investments

Hi Ms. Bowers,

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In reference to your second request dated October 23, 2012, you e-mailed that you would review the records provided to you to determine if they satisfied the specifics of your request and that you would get back with us. We were waiting to hear from you on this request as to how you wish to proceed.

Sincerely,

Nell N. Bowers, Paralegal
Office of General Counsel
State Board of Administration
1801 Hermitage Boulevard
Tallahassee, FL 32308
nell.bowers@sbafla.com

From: Gina Edwards [<mailto:ginavossedwards@gmail.com>]
Sent: Tuesday, December 18, 2012 1:53 PM
To: Bowers_Nell; MacKee_Dennis
Subject: public records request alternative investments


Ms. Bowers,

Can you provide an update on the status of my public records requests on alternative investments?

Gina Edwards
Watchdog City Press

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Additionally, please note that Florida has a very broad public records law. This communication (including your email address, any attachments and other email contents) may be subject to disclosure to the public and media.

 **Estimate_SBA_Oct_23_2012_request.pdf**
22K



STATE BOARD OF ADMINISTRATION
OF FLORIDA

1801 HERMITAGE BOULEVARD
TALLAHASSEE, FLORIDA 32308
(850) 488-4406

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RICK SCOTT
GOVERNOR
AS CHAIR

JEFF ATWATER
CHIEF FINANCIAL OFFICER

PAM BONDI
ATTORNEY GENERAL

ASH WILLIAMS
EXECUTIVE DIRECTOR & CIO

April 10, 2013

Transmitted Via E-Mail: ginavossedwards@gmail.com

Ms. Gina Edwards
Watchdog City Press Reporter
4760 Tamiami Trail N., Suite 1A
Naples, Florida 34103

Dear Ms. Edwards:

I am in receipt of your correspondence to the Trustees of the State Board of Administration (SBA) regarding your concerns over your public records request.

When your initial request was made covering 25 years of records for hundreds of investments, the agreed-upon goal was to provide you available, responsive, non-exempt records with minimal or no cost to you. During that process, the SBA cooperated with you on how you may best focus your request consistent with the reporting formats the SBA maintains in order to minimize your cost (inclusive of waiving fees) and expedite our responses. As such, your requests evolved over time. Please keep in mind, that under public records laws, the SBA is not required to create a record, but we agreed to do so in some instances in order to facilitate your requests.

Without going through a point-by-point correction, your letter makes essentially two claims. The first being that the SBA improperly withheld information related to placement agent compensation (which is not paid from SBA funds), and the second being, the SBA either improperly delayed or improperly withheld non-exempt records.

Placement Agent Disclosure

Your request for placement agent disclosure certifications resulted in 50 responsive records indicating the use of a placement agent. Of those records, 37 were executed prior to the disclosure requirement under Section 215.4401(7)(j), Florida Statutes relative to placement agents becoming law. Twenty-seven of the 50 responses disclosed fees or compensation paid, although other pieces of information may have been redacted such as the identity of the placement agent, services provided, or other operational information related to the fund or placement agent.

Ms. Gina Edwards

April 10, 2013

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It appears, of the 50 responsive records, four were executed or received by the SBA after the effective date of the statute, October 1, 2011, and had fees or other related information redacted and the proprietor provided a declaration that the redacted information was either a "trade secret" and/or proprietary confidential information. While the SBA does not make these certifications, nor do we have the authority to make the determination of whether portions of a record constitute trade secrets, as is our customary practice we will communicate your objection to the proprietors of the four redacted records in question. The proprietors may provide a revised declaration addressing the provisions of the Section 215.4401(7)(j), Florida Statutes or authorize the release the records.

As you may recall, you sent me several specific follow-up questions regarding specific placement agent disclosure records we had provided which were answered promptly and thoroughly. However, our records indicate you did not express any objections to the redacted records provided by the SBA.

Record Requests

Your characterization of the documents received in the "see below enclosures" addendum to your letter indicates that all your record requests have been met with two possible exceptions, both of which could have been, or can be, provided to you at minimal cost.

- 1) Response to Item A, name and vintage year of fund, was provided to you on November 14, 2012 with the exception of the address and identity of the principals of each investment. While information related to addresses of the SBA's investments are not exempt from public disclosure, it is not maintained in a database and would require SBA staff to research this information to create a list for you. However, the most reliable source of the current address and identities of the principles can be obtained free via the internet; specifically SEC Schedule D filings.
- 2) Item E was specifically addressed in Nell Bowers letter of March 11, 2013 which stated:

"If you are requesting AI reports prior to 2005, they will have to be prepared as outlined in the referenced statement. For the AI reports from 1989 to 2004, we estimated 18 hours of staff time at a charge of \$434.64. If you are requesting the point-to-point cash flow chart to be prepared on a fiscal-year-end-basis, that estimate is 25 hours at a charge of \$603.25." (The point-to-point cash flow chart previously provided to you gave enough detailed data that the time periods could be formatted by the user.)

Ms. Gina Edwards

April 10, 2013

Page 3 of 4

I regret that our response to your extensive request elicited concern on your part as it appears by your own report that the items you requested have either been provided to you or made available to you at a reasonable cost. We have a record of addressing your specific inquiries so as to provide you a better understanding of the topics and our processes, but have no record of your concerns related to our responses to your requests. Had we been made aware of your specific concerns about the few issues you have identified, we would have attempted to address them.

Respectfully,



Dennis D. MacKee
Director of Communications

cc: Honorable Rick Scott
Honorable Jeff Atwater
Honorable Pam Bondi
Ash Williams

State Board of Administration
1801 Hermitage Blvd,
Suite 100
Tallahassee, Florida 32308
[\(850\) 488-4406](tel:(850)488-4406)

Oct. 23, 2012

RE: Public Records Act Request – Alternative Investment information that the SBA is bound to provide under F.S. 119

To Public Records Custodian:

Pursuant to F.S. 119 and in accordance with F.S. 215.4401, I request the following public information, for each year for the time period 1992 through 2012 for the FRS defined benefit pension fund:

- a. The name, address, and vintage year of an alternative investment vehicle and the identity of the principals involved in the management of the alternative investment vehicle.
- b. The dollar amount of the commitment made by the State Board of Administration to each alternative investment vehicle since inception.
- c. The **dollar amount and date** of cash contributions made by the State Board of Administration to each alternative investment vehicle since inception.
- d. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration from each alternative investment vehicle.
- e. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration plus the remaining value of alternative-vehicle assets that are attributable to the State Board of Administration's investment in each alternative investment vehicle.
- f. The net internal rate of return of each alternative investment vehicle since inception.
- g. The investment multiple of each alternative investment vehicle since inception.
- h. The dollar amount of the total management fees and costs paid on an annual fiscal-year-end basis by the State Board of Administration to **each alternative investment vehicle**.
- i. The dollar amount of cash profit received by the State Board of Administration from each alternative investment vehicle on a fiscal-year-end basis.

For purposes of this public records request, As used in F.S. 215.4401 the term:

1. "Alternative investment" means an investment by the State Board of Administration in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.
2. "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure or investment manager through which the State Board of Administration invests in a portfolio company.

As noted on the SBA web site in the October 2012 statement on “Alternative Investments” under the section “Are Alternative Investments Transparent,” the above items are not subject to exemption from F.S. 119.

As acknowledged by the SBA in the October 2012 statement: The SBA is bound by Florida’s public records laws to provide transparency that states that “Proprietary confidential business information” does not include the items a. through i. in F.S. 215.4401 as requested herein.

No **review fees** for redactions are appropriate. All of the above public information should have been collected by the SBA in the normal course of business.

Also note that the oldest private equity fund that is still open, as listed in the Sept. 2012 report to the trustees, has an inception date of 18 years ago.

In addition, please provide SBA Annual Investment reports for each of the years 1992 to 2002. I have obtained the years 2002 to 2011 from links on the SBA web site.

Please permit me, or my assistant, to inspect and copy the requested records immediately. The Public Records Act requires virtually immediate responses. No waiting or holding period is proper under the Act. *Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

If any charges apply, please inform me of an estimate of charges in advance of fulfilling this records request.

If you claim any statutory exemption applies to all or part of the records requested, please state in writing, the basis for the exemption claimed (including the statutory citation), as required by Section 119.07 (1) (e), Florida Statutes.

Electronic copies of the above records are preferable. However, I am eager to mutually cooperate with you so we can most efficiently expedite this request of public records.

Thank you in advance for your cooperation.

Sincerely,

Gina Edwards
Watchdog City Press

[239-514-1336](tel:239-514-1336)

[239-293-3640](tel:239-293-3640) cell

[239-449-8045](tel:239-449-8045) via skype

215.4401 Board of Administration; public record exemptions.—

(1) In order to effectively and efficiently administer the real estate investment program of the State Board of Administration, the Legislature finds a public necessity in protecting specified records of the board. Accordingly, records and information relating to acquiring, hypothecating, or disposing of real property or related personal property or mortgage interests in same, as well as interest in collective real estate investment funds, publicly traded securities, or private placement investments, are confidential and exempt from s. [119.07\(1\)](#) in order to protect proprietary information requisite to the board's ability to transact arms length negotiations necessary to successfully compete in the real estate investment market. All reports and documents relating to value, offers, counteroffers, or negotiations are confidential and exempt from s. [119.07\(1\)](#) until closing is complete and all funds have been disbursed. Reports and documents relating to tenants, leases, contracts, rent rolls, and negotiations in progress are confidential and exempt from the provisions of s. [119.07\(1\)](#) until the executive director determines that releasing such information would not be detrimental to the interests of the board and would not cause a conflict with the fiduciary responsibilities of the State Board of Administration.

(2) In order to effectively and efficiently administer the investment programs of the board, the Legislature finds a public necessity in protecting records other than those described in subsection (1). Accordingly, records and other information relating to investments made by the board pursuant to its constitutional and statutory investment duties and responsibilities are confidential and exempt from s. [119.07\(1\)](#) until 30 days after completion of an investment transaction. However, if in the opinion of the executive director of the board it would be detrimental to the financial interests of the board or would cause a conflict with the fiduciary responsibilities of the board, information concerning service provider fees may be maintained as confidential and exempt from s. [119.07\(1\)](#) until 6 months after negotiations relating to such fees have been terminated. This exemption prevents the use of confidential internal investment decisions of the State Board of Administration for improper personal gain.

(3)(a) As used in this subsection, the term:

1. "Alternative investment" means an investment by the State Board of Administration in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.
2. "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure or investment manager through which the State Board of Administration invests in a portfolio company.
3. "Portfolio company" means a corporation or other issuer, any of whose securities are owned by an alternative investment vehicle or the State Board of Administration and any subsidiary of such corporation or other issuer.

4. "Portfolio positions" means individual investments in portfolio companies which are made by the alternative investment vehicles, including information or specific investment terms associated with any portfolio company investment.
5. "Proprietor" means an alternative investment vehicle, a portfolio company in which the alternative investment vehicle is invested, or an outside consultant, including the respective authorized officers, employees, agents, or successors in interest, which controls or owns information provided to the State Board of Administration.
6. "Proprietary confidential business information" means information that has been designated by the proprietor when provided to the State Board of Administration as information that is owned or controlled by a proprietor; that is intended to be and is treated by the proprietor as private, the disclosure of which would harm the business operations of the proprietor and has not been intentionally disclosed by the proprietor unless pursuant to a private agreement that provides that the information will not be released to the public except as required by law or legal process, or pursuant to law or an order of a court or administrative body; and that concerns:
 - a. Trade secrets as defined in s. [688.002](#).
 - b. Information provided to the State Board of Administration regarding a prospective investment in a private equity fund, venture fund, hedge fund, distress fund, or portfolio company which is proprietary to the provider of the information.
 - c. Financial statements and auditor reports of an alternative investment vehicle.
 - d. Meeting materials of an alternative investment vehicle relating to financial, operating, or marketing information of the alternative investment vehicle.
 - e. Information regarding the portfolio positions in which the alternative investment vehicles invest.
 - f. Capital call and distribution notices to investors of an alternative investment vehicle.
 - g. Alternative investment agreements and related records.
 - h. Information concerning investors, other than the State Board of Administration, in an alternative investment vehicle.
7. "Proprietary confidential business information" does not include:
 - a. The name, address, and vintage year of an alternative investment vehicle and the identity of the principals involved in the management of the alternative investment vehicle.
 - b. The dollar amount of the commitment made by the State Board of Administration to each alternative investment vehicle since inception.
 - c. The dollar amount and date of cash contributions made by the State Board of Administration to each alternative investment vehicle since inception.
 - d. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration from each alternative investment vehicle.

- e. The dollar amount, on a fiscal-year-end basis, of cash distributions received by the State Board of Administration plus the remaining value of alternative-vehicle assets that are attributable to the State Board of Administration's investment in each alternative investment vehicle.
- f. The net internal rate of return of each alternative investment vehicle since inception.
- g. The investment multiple of each alternative investment vehicle since inception.
- h. The dollar amount of the total management fees and costs paid on an annual fiscal-year-end basis by the State Board of Administration to each alternative investment vehicle.
- i. The dollar amount of cash profit received by the State Board of Administration from each alternative investment vehicle on a fiscal-year-end basis.
- j. A description of any compensation, fees, or expenses, including the amount or value, paid or agreed to be paid by a proprietor to any person to solicit the board to make an alternative investment or investment through an alternative investment vehicle. This does not apply to an executive officer, general partner, managing member, or other employee of the proprietor, who is paid by the proprietor to solicit the board to make such investments.

(b) Proprietary confidential business information held by the State Board of Administration regarding alternative investments is confidential and exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution for 10 years after the termination of the alternative investment. This exemption applies to proprietary confidential business information held by the State Board of Administration before, on, or after October 1, 2006.

(c)1. Notwithstanding the provisions of paragraph (b), a request to inspect or copy a record under s. [119.07\(1\)](#) that contains proprietary confidential business information shall be granted if the proprietor of the information fails, within a reasonable period of time after the request is received by the State Board of Administration, to verify the following to the State Board of Administration through a written declaration in the manner provided by s. [92.525](#):

- a. That the requested record contains proprietary confidential business information and the specific location of such information within the record;
- b. If the proprietary confidential business information is a trade secret, a verification that it is a trade secret as defined in s. [688.002](#);
- c. That the proprietary confidential business information is intended to be and is treated by the proprietor as private, is the subject of efforts of the proprietor to maintain its privacy, and is not readily ascertainable or publicly available from any other source; and
- d. That the disclosure of the proprietary confidential business information to the public would harm the business operations of the proprietor.

2. The State Board of Administration shall maintain a list and a description of the records covered by any verified, written declaration made under this paragraph.

(d) Any person may petition a court of competent jurisdiction for an order for the public release of those portions of any record made confidential and exempt by paragraph (b). Any action under this paragraph must be brought in Leon County, Florida, and the petition or other initial pleading shall be served on the State Board of Administration and, if determinable upon diligent inquiry, on the proprietor of the information sought to be released. In any order for the public release of a record under this paragraph, the court shall make a finding that the record or portion thereof is not a trade secret as defined in s. [688.002](#), that a compelling public interest is served by the release of the record or portions thereof which exceed the public necessity for maintaining the confidentiality of such record, and that the release of the record will not cause damage to or adversely affect the interests of the proprietor of the released information, other private persons or business entities, the State Board of Administration, or any trust fund, the assets of which are invested by the State Board of Administration.

History.—s. 4, ch. 93-162; s. 70, ch. 96-406; s. 1, ch. 2006-163; s. 1, ch. 2011-101.



STATE BOARD OF ADMINISTRATION
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PAM BONDI
ATTORNEY GENERAL

ASH WILLIAMS
EXECUTIVE DIRECTOR & CIO

March 11, 2013

Gina Edwards
8141 Las Palmas Way
Naples, FL 34102

Re: Your February 22nd e-mail regarding your October 23rd PRR

Ms. Edwards:

Enclosed is a CD containing 19 additional Alternative Investment IRR reports, three are pre-2007, that I have been able to locate in a format that is responsive to your request. The distributions on the AI reports provided to you are since inception, cumulative, and therefore not on a fiscal year-end basis, however, that information can be determined from the data you have been provided. Our reports are prepared that way in order to calculate the IRR figures, which is the industry standard. You were provided with Q2 reports because the data is "as of June 30" of each year, that date representing the SBA's fiscal year-end.

These reports were provided because they contain data responsive to items "b, c, d, e, and f" of your request.

The Point-to-Point Cash flow chart is also on a since inception basis and was provided as responsive to item c of your request representing contributions only, not distributions, which are in the AI reports.

These records were provided to you because they were readily available and could be produced without a charge to you. Apparently, the AI reports are not prepared with the investment multiple so that would require running new reports and additional costs.

If you are requesting AI reports prior to 2005, they will have to be prepared as outlined in the referenced statement. For the AI reports from 1989 to 2004, we estimated 18 hours of staff time at a charge of \$434.64. If you are requesting the Point-to-Point Cash flow chart to be prepared on a fiscal-year-end basis, that estimate is 25 hours at a charge of \$603.25.


Regarding Item i of your request, Cash profit on an alternative investment can only be determined after the investment has been closed. The chart below contains that data. We are still holding \$72,830 in TSG Capital Fund III for estimated fees, so that figure may change.

FUND NAME	CLOSED	PROFIT/LOSS
Ripplewood Partners I, L.P.	03/31/2011	\$75,695,566.24
Thomas H. Lee Equity Fund IV, L.P.	11/30/2009	-\$12,688,674.04
Liberty Partners I, L.P.	05/31/2008	\$267,090,547.93
Liberty Partners IV, L.P.	03/31/2008	-\$66,000,789.24
TSG Capital Fund III, L.P.	12/31/2010	-\$46,347,448.00
Corporate Partners	07/31/2000	\$133,709,385.05

The SBA reports the alternative investment management fees in their annual reports as a lump sum. However, after several hours, our accounting department was able to compile the data for FYE 1992 to 2012. This record is also on the enclosed CD. Please be advised that because the strategic investment asset class has evolved over time to include investments ranging from global equity to debt funds to alternative funds, this report may include some funds that are not traditionally seen as alternative investments.

At this time, we have provided you with all the records we believe to be responsive to your request that can be provided without a charge to you. If you wish to request reports prior to 2005 or the Point-to-Point Cash flow chart on a fiscal year-end basis, please provide us with the payments as outlined above and we will begin working on a response.

Sincerely,



Nell N. Bowers
Enclosure