

September 18, 2009

Elizabeth M. Murphy Secretary
U.S. Securities and Exchange Commission
100 F Street, NE Washington, DC 20549-1090
Re: File Number 87-18-09 Political Contributions by Certain Investment Advisers

Dear Secretary Murphy:

I am a Trustee of the \$12 billion Kentucky Retirement Systems (KRS). I am speaking as an independent fiduciary and in no way represent the other trustees or the staff. I strongly support the proposed rule, with some recommended expansions, and commend the Commission on its thoughtful efforts to improve protections for public investors.

From my observations, I think you need to plug up some significant loopholes for political donations, clamp down on money manager payments to consultants and attorneys for plans and provide more federal protections for whistleblowers whether they are public employees, trustees or even other parties.

While I have no proof since all the donations would be secret, I want to outline a system in Kentucky which I believe has been and continue to be a potential vehicle for political pay to play. The state legislature has caucus committees that raise money that are neither parties nor individual campaigns. There are four caucus's representing both parties in the House and Senate. According to a Legislative Ethics Commission ruling in 1993 asked for by KRS these caucus's do not have to report donations under \$5,000 if they are not lobbyists. This ruling confirmed that money managers, brokers and other vendors are not lobbyists and thus exempt from reporting donations under \$5,000 per year.

KRS has been as large as \$17 billion in assets. KRS pays around \$20 million a year to over a 100 vendors (primarily money managers and brokers) to manage these assets legal advice etc. These 4 Caucus's could theoretically get 100 donations each at \$4,999 unreported to anyone. That is \$499,000 a year each or right under \$2 million a year.

In reality this number is most likely lower but still could be significant. It may just be a coincidence but the top fundraiser for the House Democratic Caucus for 15 years happened to be the wife of the Executive Director of the Kentucky Retirement Systems.

I also brought up pay to play concerns at the August 08 and February 09 board meeting about a conference run by KRS's attorney highlighted in 2004 articles in the NY Times and Forbes.ⁱ The

lawyer reportedly charges money managers and others \$80,000 to \$100,000 to get exposure to public fund trustees. ⁱⁱ

Pay to play can have real negative effects on investment performance. As an institutional investment consultant I became very suspicious of a poor performing bond manager. In my opinion this manager was totally unqualified to be hired as a manager since they had never managed a large institutional account and KRS would be a huge portion of its assets. This sent up to me a red flag for pay-to-play, since I knew no major investment consultant would ever recommend this manager for a large public plan. After I started asking questions this manager was fired in August 09 but in only 2 ½ years underperformed its benchmark by around \$40 million.

In retaliation for asking these questions and some others on a bad land deal, ⁱⁱⁱ I (the only investment professional on the board) have been removed from the Investment committee by the chair at the August 20, 2009 meeting.

I strongly encourage federal involvement in our Public retirement systems. Loopholes need to be closed and whistleblowers protected. There are no effective regulators of public pension plans and they represent billions at risk.

Chris Tobe, CFA, CAIA
Trustee Kentucky Retirement Systems

CHRIS TOBE, CFA, CAIA has 23 years of institutional investment experience with a focus on Public Pension plans. Currently with BCAP Institutional Investment Consulting in 2009 he is working with the State of Maryland and several other public plans. In 2008 he was named by Gov. Steve Beshear to be a Trustee for the then \$17 billion Kentucky Retirement Systems. From 2008-2009 at NEPC consulting he worked with a number of public pension plans including Oklahoma, St.Louis Public Schools, Amtrak & City of Dearborn. While at AEGON 2001-2008 he worked with Public Plans such as Montana, Pennsylvania, LA County, Cook County, Chicago, Ohio, Vermont, & Memphis. While at Fund Evaluation group 1999-2001 he worked with Public University Endowments at Purdue, U.of South Carolina, Indiana State and U. of Memphis. From 1997-1999 he worked with Kentucky State Auditor Ed Hatchett and published a 40 page report on the investments of both the Kentucky Retirement Systems and the Kentucky Teachers Retirements Systems. He has published articles on public pension investing in the Financial Analysts Journal, Journal of Investment Consulting, Journal of Performance Measurement, and Plan Sponsor Magazine. He has given 11 presentations on Public Pension investing to a number of national groups and conferences and testified to both the DOL and SEC. He holds an MBA in Finance and Accounting from Indiana University Bloomington and a BA in Economics from Tulane and served as the Joint Economic Committee Intern for Lee Hamilton. He has taught the MBA investment course at the University of Louisville, and is a 10-time grader for the CFA exam.

ⁱ http://www.forbes.com/forbes/2004/0920/150_print.html

ⁱⁱ <http://www.stockbroker-fraud.com/lawyer-attorney-1133789.html>

ⁱⁱⁱ <http://www.kentucky.com/210/story/884920.html>