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August 8, 2008

Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Subject: File No. S7-22-08 (Proposed Soft Dollar Guidance for Fund Directors)

Dear Securities and Exchange Commission:

During the July 12, 2006 Open Meeting at which Commission Guidance Regarding Client Commission Practices Under Section 28(e) of The Securities Exchange Act of 1934 was passed, the content of The Guidance and the comments made by the chairman, commissioners and some staff members about The Guidance and about the future of soft dollar regulation led many institutional investment professionals to believe the SEC intended to soon release interpretive guidance on disclosure and transparency in all institutional brokerage arrangements. Furthermore, The Guidance and the comments in this open meeting also led to the general belief that the SEC planned, in the future, to monitor and regulate soft dollars generated in bundled undisclosed brokerage arrangements, and ostensibly used to purchase brokers' **proprietary** research, with the same regulatory fervor it has applied to soft dollars generated from third-party brokerage arrangements and used to purchase fully-disclosed independently produced investment research [in compliance with Section 28(e)].[1] Nothing the SEC has done since July 12, 2006 seems to contribute to the goals of brokerage commission disclosure and transparency, or the equal regulatory treatment of soft dollars generated in bundled undisclosed brokerage arrangements - as compared to the regulatory treatment of third-party soft dollar arrangements.

Also, I am concerned that I continually hear very senior SEC officials state that, in recent years, soft dollar brokerage totals approximately 1 billion dollars per year,[2] when, in fact, annual soft dollar brokerage currently costs institutional advisors' clients closer to 10 billion dollars per year. It seems the SEC and the public can only truly appreciate the negative effect, and the magnitude of loss of account owners' potential long term compounded investment returns, if the true magnitude of soft dollar brokerage is revealed. A careful re-reading of Section 28(e) of the Securities Exchange Act of 1934[3] and the SEC's interpretation and definition of soft dollar brokerage[4] should help to reveal a misinterpretation that has led some to significantly underestimate the true magnitude of soft dollar brokerage.

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[1] See, **Speech By SEC Chairman: Opening Statements at the Commission Open Meeting** *by* Chairman Cox - July 12, 2006 (First Item: Soft Dollar Interpretive Release) at > http://www.sec.gov/news/speech/2006/spch071206cc2.htm and access the video record of the July 12, 2006 SEC Sunshine Meeting at > http://www.connectlive.com/events/secopenmeetings/2006index.html

[2] See, **Statement on Soft Dollar Interpretation** *by* SEC Commissioner Roel Campos July 12, 2006 at> http://www.sec.gov/news/speech/2006/spch071206rcc2.htm

[3] See, **Section 28(e) of the Securities Exchange Act of 1934**, pages 235 to 238 at > http://www.sec.gov/about/laws/sea34.pdf

[4] See, **Inspection Report On The Soft Dollar Practices of Broker Dealers, Investment Advisors and Mutual Funds**, published September 22, 1998 Item II. A. Soft Dollars Defined at > http://www.sec.gov/news/studies/softdolr.htm

It seems full-service brokers, investment advisors, and investment consultants are motivated to misinterpret and under report their uses of clients' brokerage commissions paid-up above the fully-negotiated costs of execution-only brokerage. In their public announcements these investment professionals neglect to report soft dollars generated in bundled undisclosed full-service brokerage arrangements. And it seems many high level officials at the SEC use these reported figures, without question. The only senior level official at the SEC who seems to understand this issue is Lori Richards, Director of the SEC's Office of Compliance, Inspections, and Examinations. Ms. Richards has been quoted to say:

> Many advisers do not take into account the research they receive from affiliated broker-dealers, when asked to report on their use of soft dollars. One very common misperception among investment advisers is that when they obtain research from a proprietary broker-dealer, they don't consider that to be a soft-dollar transaction. That's a misunderstanding. If they are acquiring research with client commission dollars, they're engaged in a soft-dollar transaction.[5]

On page 14 of the proposed guidance many of the explicit costs of brokerage execution are itemized. Based upon the state of the brokerage industry in 1975 and the government's mandate that all brokerage commissions be fully-negotiated after May 1, 1975, it seems very reasonable to conclude that the U.S. Congress' intention, as expressed in Section 28(e), was that these explicit costs of execution would be fully-negotiated and that under the safe harbor of Section 28(e) certain qualifying investment research could be purchased with clients' commissions "paid-up" above the advisors' "fully-negotiated costs of brokerage execution". It seems highly unlikely that Congress intended the amounts of commissions "paid-up" not to be disclosed, or to be obscured in bundles of unidentified and subjectively valued brokerage services.

This proposed guidance also mentions how competition, technology, advanced processes and new trading venues have continued to reduce the costs of brokerage execution. This is undeniably true. Trading cost studies I have recently seen show that the explicit costs of institutional brokerage execution are in the range of ½ to ¾ of a cent per share. While at present institutional advisors are paying 4 to 4.5 cents per share (of their clients' money) in brokerage commissions.[6] It seems the single most helpful thing the SEC could do to enable fund boards and fund directors to properly discharge their fiduciary responsibilities would be to mandate the identification and pricing of the services investment advisors' receive in these soft dollar brokerage arrangements.

Thank you,

Bill George

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[5] See, **InvestmentNews** article, Advisors Misreport Use of Soft Dollars *by* Sara Hansard published July 24, 2006 at >http://www.investmentnews.com/apps/pbcs.dll/article?AID=/20060724/SUB/607240718/1009/TOC&ht

[6] See, **TheStreet.com** article titled, The Seven Deadly Sins of 401K Plans Fifth Deadly Sin Excessive Fees - Disclosed and Hidden - published 9/22/2003 at >http://www.csimac.com/pdf/401ksins.pdf