

## Memorandum

To: Greg Cox, Assistant District Attorney, Travis County Public Integrity Unit  
To: Linus D. Wright, *Chairman*, TRS Board of Trustees  
From: Michael Green, *Director*, TRS Investment Division - Private Markets  
Subject: ***Policy and legal issues within the Investment Management Division of the Teacher Retirement System of Texas***

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Over the last two years I've had the privilege to be a part of the team whose goal is to build a modern investment management organization within TRS. Over that time, however, my excitement has given way to increasing concern as relativistic ethics have taken root within parts of the senior management team as they've worked to gain the support and resources necessary to realize that goal. Rationalizing ***violations of TRS directives, policies and procedures, devaluing of personal and professional ethics***, and the ***violation of state laws*** have become increasingly familiar. Ironically this has all occurred at the same time the agency's Chief Investment Officer, Britt Harris is, I believe sincerely, espousing the importance of high ethical standards, the Investment Division's mission to serve its members, and the modernization of TRS' investment capabilities. I've hesitated to bring my concerns forward due to the progress that has been made in improving the division's capabilities, concern about the impact it may have on the fund, its employees and beneficiaries, and the realization that doing so will effectively end my career with an agency I love, people I respect, a job I enjoy, and a mission I believe in. I also understand that there is a high probability that I will have to endure a concerted effort to discredit me and these concerns (almost certainly in an effort to "save TRS"). I pray that my wife, son, and daughter will come to respect my decision and not regret the costs they will inevitable bear for it. Ultimately my belief that this is a slippery slope which will bring permanent long-term harm to the fund's beneficiaries and the importance of maintaining my personal integrity demanded that I come forward.

The fundamental driver of these issues is Mr. Harris' intense focus on building a high-performance investment organization at TRS. The underlying beliefs that have allowed them to develop can be summarized in two phrases that he has repeated to me dozens of times since I first met him:

- ***"You're too skeptical,"*** and
- ***"You've got to go along to get along"***

That goal and those beliefs have allowed Mr. Harris to be manipulated by Board members and investment managers to the detriment of TRS' beneficiaries. He has stated on numerous occasions that ***"I manage a fund with billions of dollars in assets, upsetting a board member or friend of the fund over the investment of a few hundred million dollars doesn't make sense."***

The following is a ***partial*** list of the issues that I have dealt with personally and those that I have limited direct knowledge of, but which were confirmed by trusted sources with first-hand knowledge of them. Many can be confirmed by email and/or first-hand witnesses, some will rely on my credibility and the pattern of fact.

These issues are presented in no particular order.

1. Mr. Harris insisted that Staff approve investment recommendations for managers that retained a placement agent (**Alfred Jackson**) who
  - a. allegedly offered compensation to a friend of TRS' Managing Director of Private Markets (Keith Garrison, who recused himself from the decision process as a result, and later resigned) in an apparent attempt to influence TRS' decision (**L&B Realty Advisors**), and
  - b. Was hired specifically to raise capital from TRS, yet TRS' investment staff never had contact with him and was unable to identify any services performed by him in conjunction with the investment. The hiring was also unusual in that Mr. Jackson was retained *after* another agent (Bluffview Capital), also retained by the manager (**Clayton, Dubilier & Rice**), had spent significant time working with TRS on the investment.
2. During due diligence on **Clayton, Dubilier & Rice** (1.b. above) TRS' investment staff and advisor notified Mr. Harris of irregularities with the placement agent and their concerns about the manager's capabilities on numerous occasions. Mr. Harris was openly hostile and abusive during staff's discussion with him about CD&R and continued to openly criticize the investment staff's findings in meetings with their peers and superiors.
3. Mr. Harris ultimately met with CD&R's management and asked them to dismiss Alfred Jackson, but only after Staff's research left him with no alternative.
4. Mr. Harris pressured TRS' investment staff and advisor to change their recommendations to decline investments with:
  - a. **EnCap Energy Capital Fund VII**
    - i. Initial recommendation: Staff – decline, Hamilton Lane – decline
    - ii. Revised recommendation: Staff – approve, Hamilton Lane – limited “prudent investor” recommendation
  - b. **EnCap Energy Infrastructure Fund**
    - i. Initial recommendation: Staff – decline
    - ii. Revised recommendation: Staff – approve, Ennis Knupp – “endorses staff's recommendation”
  - c. **Clayton, Dubilier & Rice Fund VIII**
    - i. Initial recommendation: Staff – decline, Hamilton Lane - Decline
    - ii. Revised recommendation: Staff – approve, Hamilton Lane – limited “prudent investor” recommendation
  - d. **Lee Equity Partners**
    - i. Initial recommendation: Staff – decline, Hamilton Lane – decline
    - ii. Revised recommendation: Staff – approve, Hamilton Lane – limited “prudent investor” recommendation
  - e. **HM Capital Partners**
    - i. Recommendation: Staff – decline; Hamilton Lane – decline

ii. Investment ultimately made through CS Emerging Manager partnership

5. Mr. Harris instructed me to compile an analysis of financial services buyouts and provide copies of the confidential Private Placement Memorandums of other private equity firms to a member of the TRS Board of Trustees (**Dory Wiley**) and employees of his firm to assist them in developing materials (e.g. a Private Placement Memorandum) for their firm's own use. Mr. Wiley and employees of his firm later requested direct access (i.e. user names and passwords) to data services (Dealogic) paid for by TRS and additional analysis from another staff member; I asked Mr. Harris for guidance and was again directed to provide the assistance to Mr. Wiley.
6. Mr. Harris directed me to reconsider my recommendation to decline an investment in a private equity partnership managed by **HM Capital Partners** (formerly *Hicks, Muse, Tate & Furst*). After several days of diligence, which confirmed the original recommendation, I was called into Mr. Harris' office and verbally harassed, threatened, and accused of being unprofessional and overly critical. At one point I was told that "***if they're good enough for Bill Quinn [CIO AMR's Pension and an HM Capital investor], why aren't they good enough for you?***" This comment shows a lack of understanding about how the investment due diligence process works and the role of a fiduciary. At the close of the meeting, I was directed to call Mr. Wiley's office and explain my findings to him. I did so and was told that I "***need to be more sensitive to my [Mr. Wiley's] business and personal relationships ... I see these people all of the time.***" Later I received a call from Mr. Harris, who was in Dallas after having flown in to meet with Mr. Wiley and HM Capital and "***calm them down;***" he said "***this is your decision, but this type of behavior will have a negative effect on your career here.***"
7. During the Staff's presentation of its diligence on **Encap Energy Capital Fund VII**, which had previously been declined by TRS Staff and consultants, a member of the TRS Board of Trustees directly asked members of the investment staff, including Mr. Harris and me, if any member of the TRS Board of Trustees had attempted to influence TRS' evaluation of the investment. Mr. Harris directed me to answer the question (I was not contacted directly by a Board member), but misled the TRS Board of Trustees by failing to disclose, as he had to me, that he had multiple discussions with certain members of the Board. In fact, the change of Staff's recommendation from "decline" to "approve" was a direct result of threats, harassment, and intimidation by Mr. Harris after his conversations with certain members of the Board of Trustees. Later, I asked Mr. Harris to explain his actions; he chuckled and told me "***that's one of the privileges of being your boss.***"
8. Mr. Harris directed me to meet with **Aldus Equity Partners** in Dallas, Texas, discuss TRS' emerging managers program with them, and provide him with an

initial informal assessment of their ability to manage part of it. I told him about our prior meetings with them and our concerns about their people, processes, and manner of doing business; He told me that Aldus has “friends on the Board” and I needed to look again. I met with them, surfaced additional concerns about the business (potential departure of key partners involving disputes over firm ownership and management) and involvement with potential legal and ethics issues at the New York Common Retirement Fund. Mr. Harris directed me to complete my diligence on Aldus regardless of these issues. I refused to write a favorable recommendation and was accused of being “*too cynical*” and told that my refusal was “*not appropriate for a senior member of my team.*” I believe this was a clear threat that I would be punished in my performance reviews and advancement opportunities.

Both of the issues identified during due diligence were realized later. Aldus is mentioned in both the SEC (<http://www.sec.gov/litigation/complaints/2009/comp20963.pdf>) and New York AG ([http://www.oag.state.ny.us/media\\_center/2009/mar/mar19a\\_09.html](http://www.oag.state.ny.us/media_center/2009/mar/mar19a_09.html)) complaints against the ex-CIO of the NY Common Retirement System. One of the firms’s founding partners and two other employees left the firm early this year <http://www.altassets.com/news/arc/2009/nz15086.php>.

9. In late 2008, Steve LeBlanc (a recent acquaintance of Mr. Harris) was hired by Mr. Harris as the Senior Managing Director of Private Markets to replace Keith Garrison, who left TRS in part due concerns about issues raised in this memo. Mr. LeBlanc is a highly experienced commercial real estate executive and I, as well as others, was relieved to have a strong intermediary in place that could “manage up” and allow us to focus on our jobs; especially someone who repeatedly says, “*No lying, cheating, or stealing.*”

The relief was relatively short-lived when members of the private markets team raised concerns that they were being pressured to write favorable recommendations for investments which they felt should be declined, but were supported by Mr. Harris or members of the Board of Trustees. Mr. Leblanc’s directive to the team was explicit ... “*discuss these investments within the team all you want, but once a decision is made and regardless of how or by whom, by the team, me, Mr. Harris, or a Board member, I expect you to get behind TRS and support decision or quit.*” After I, and several other members of the team, privately told Mr. LeBlanc that we were concerned by the ethical and legal implications of his comments, he restated it somewhat differently and told the team he will “*stand behind any decision you make, but understand that once they shoot me, you’re next*” and then said that “*your concern about these types of issues is naïve ... you’re too pure; this is the way business is done.*”

My next encounter with Mr. LeBlanc’s method of dealing with Board involvement was after I attempted to eliminate 1 of 3 potential managers recommended to staff by a Board member (Mr. Wiley), for a strategy that the

Board member recommended we pursue. I presented the recommendation to eliminate a manager in our weekly staff meeting and it was agreed to by Mr. LeBlanc; When the Board member was informed, he expressed extreme displeasure and instructed Mr. LeBlanc to put them back into consideration. Mr. LeBlanc said “okay” and told me that ***“it looks like your cart is in the ditch with Dory, too bad.”***

I was concerned by Mr. LeBlanc’s unwillingness to back decisions made by his team and with his approval (which was also an issue in Staff’s unsuccessful attempt to decline an investment ***Encap Energy Infrastructure***), and asked to discuss it with him. He asked that we discuss it in a meeting scheduled to review a 90-day plan I had prepared for Mr. Harris. The meeting was attended by Susan Wade, Mr. LeBlanc, and I. I explained the history of my, and the team’s, dealings with Board members, specifically describing the incident in which Mr. Harris directed me to assist in preparing materials for Mr. Wiley’s firm; Mr. LeBlanc dismissed the situation as ***“no big deal,”*** despite the fact the ***Ms. Wade and I both informed him it was a violation of Texas law and of TRS policy.*** After the meeting I offered to provide documentation of the incident and asked him discuss it with Mr. Harris, but was told ***“if you ever mention this again, our next conversation will be at your exit interview.”***

10. There are many other major and minor incidents within private markets and other groups, which illustrate the increasing impairment of TRS’ investment process.
  - a. Certain staff members have expressed their concern that any disagreement with Mr. Harris or a Board member will result in their firing. As a result there is a general unwillingness to provide frank opinions on investments that are politically sensitive or where the manager has a relationship with Mr. Harris.
  - b. A public 2 hour rant and inquisition in a Dallas restaurant, after a 2008 Board meeting, where Mr. Harris repeatedly accused the management team of disloyalty for questioning his decisions, discussing issues directly with the Board, and demanded to know who had talked with them.
  - c. Using the threat of withholding the discretionary payment of accumulated comp time, vacation, etc. to gain informal “non-disparagement” agreements from departing employees.
  - d. Making a highly unusually (only instance?) decision to use a consultant that had never done private markets work for TRS (Ennis Knupp) to conduct due diligence on a Trustee-sponsored investment in a first-time fund (Encap Energy Infrastructure) and then using capital from two different allocations (SRRM and Real Assets) in order to provide a “large enough” investment.
  - e. Overriding staff recommendations not to invest \$100,000,000 in Lehman Brother’s failed attempt to raise its liquidity, and quickly losing most of it, because ***“they’re our partner and they need us.”***

- f. Committing capital to a trustee-sponsored hedge fund which had to be provided with consulting on basic financial and risk controls before TRS' advisor would agree to recommend an investment with them.
- g. Directing staff to make \$100,000,000 investment in a private equity management firm (not the investment partnerships it managed) despite extraordinarily poor terms and pricing because "***they're our partner and they need us.***" The investment was ultimately avoided, but only because the manager stated they did not need an investment from TRS.
- h. Directing staff to restart an almost completed, 3 month-long, manager search because a Board member wanted to include another firm in the search.
- i. Investments declined by staff and consultants being made a short time later by an outside manager investing TRS' capital. The outside manager maintained a close relationship with the Board members whom originally referred the investments to TRS.
- j. Directives that show fundamental misunderstandings about how certain asset classes function or should be managed (e.g. "***I want the new allocation to be completely invested in private equity and real estate within the year***" ... in 2007)
- k. Use of indirect payments from investment managers, funded through investment management fees paid to the manager by TRS, to pay for FTE headcount and other resources beyond that budgeted by the Legislature.
- l. Failure to disclose, as requested by the Board of Trustees, the involvement of individual Board members in the manager hiring process.
- m. And others ... This list is not exhaustive.

In summary, these are largely lapses in business judgment, professional ethics and violations of internal policies and procedures. I believe, however, that some of the issues involve violations of Texas law that I am obligated, by professional standards, state law, and agency policy, to disclose.

Regards,

Michael Green  
Director, Private Markets  
Teacher Retirement System of Texas  
+1.512.542.6377

**From:** [Green, Michael](#)  
**To:** [Michael Green](#)  
**Subject:** FW: Dealogic  
**Date:** Tuesday, October 07, 2008 6:26:29 PM  
**Attachments:** [Example PE data.pdf](#)

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**From:** Strange, Ashley  
**Sent:** Thursday, November 29, 2007 4:49 PM  
**To:** Green, Michael  
**Subject:** FW: Dealogic

Mike—

Can we discuss this request? I am not up to speed on Dealogic yet and want to understand your thoughts on handling this request.

Thanks

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**From:** Carla J. Brooks [mailto:[cbrooks@centro-stony.com](mailto:cbrooks@centro-stony.com)]  
**Sent:** Thursday, November 29, 2007 3:44 PM  
**To:** Strange, Ashley  
**Subject:** Another question

Does Dealogic track the total number of merger and acquisition deals by sector (using the same ones as when looking exclusively at private equity)?

Carla Brooks  
Chief Operating Officer  
Service Equity Partners, LP  
Phone: (212) 260-1200  
Fax: (212) 260-1201

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**From:** Carla J. Brooks [mailto:[cbrooks@centro-stony.com](mailto:cbrooks@centro-stony.com)]  
**Sent:** Thursday, November 29, 2007 3:34 PM  
**To:** Strange, Ashley  
**Subject:** Dealogic

Ashley,

I work with Dory Wiley, who has been asking Michael Green for information on private equity. First of all let me thank you for the information I have gotten to date. However, I need to show financial services in the data somewhere as that is what I'm focusing on. Thus, rather than continuing to send it through the channels it has been going through, Dory said it was okay for me to contact you directly. I'm attaching an example of the information that I am looking for. As you can see it came from Dealogic. Do you think you could recreate something similar with data through 2007 (year to date)?

Thanks so much. My contact information is below if you have any questions or need additional information.

Carla Brooks  
Chief Operating Officer  
Service Equity Partners, LP  
Phone: (214) 515-6800  
Fax: (214) 515-6800

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**From:** [MacDonell, Allen](#)  
**To:** [Green, Michael](#); [Lang, Eric](#);  
**Subject:** RE: Aldus looks like a go  
**Date:** Thursday, February 21, 2008 8:33:06 AM

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Agree with everything and unfortunately I enjoy my benefits from being employed too much right now.

-----Original Message-----

From: Green, Michael  
Sent: Thursday, February 21, 2008 8:26 AM  
To: Lang, Eric; MacDonell, Allen  
Subject: RE: Aldus looks like a go

That's the obviously the right answer, but Britt has made it very clear that he believes our concerns are unwarranted and derived from a personal dislike of Aldus. Since this recommendation will be driven by TRS' "need" for whatever mandate we're asked to give them (most likely a second emerging manager program) and a largely qualitative assessment of their abilities, on what basis do you suggest that we reject them? Every single previous attempt has been sent back for reconsideration. There is absolute 100% certainty that Britt will, again, 1.) say that it isn't worth upsetting Dory and Jarvis over a relatively trivial amount of capital, 2.) discredit our due diligence and judgment because "other (i. e. smarter) investors have given them money," and 3.) dismiss any concerns about need or fit by simply saying we're wrong with no explanation. The damage to our reputational equity and creation of a culture where Board members feel empowered to finance their personal agendas with teacher/retiree/taxpayer \$\$\$ don't seem to concern him; I dread the next Legislative session and the possibility of being asked to provide justification for funding a Texas-focused investment program.

I'm frustrated by this whole thing, but what do you do when the CIO and Board of Trustees both support something? This is not a situation where you simply escalate your concerns up the chain of command.

Sorry to vent like this ... may be we should budget for an on-site psychologist/therapist ;-)

-----Original Message-----

From: Lang, Eric  
Sent: Thu 2/21/2008 7:26 AM  
To: Green, Michael; MacDonell, Allen  
Subject: Re: Aldus looks like a go

Complete it and come with an honest opinion. If it is reject - reject; if recommend, then recommend. Do not waiver. Stick to what you believe what is best for the TRS.

----- Original Message -----

From: Green, Michael

To: MacDonell, Allen; Lang, Eric

Sent: Wed Feb 20 23:16:22 2008

Subject: RE: Aldus looks like a go

Seems pretty clear ... we've been officially told to "complete the due diligence," write a recommendation, and give Aldus money. Based on the directives we've received recently and in the past, the due diligence is apparently a formality.

Is it my imagination or does there seem to be a renewed urgency on Britt's part to close a bundle of questionable transactions? Two weeks ago, CD&R seemed stone cold dead due to poor performance and board/ethics issues; Now the "smartest PE investor in the world" is looking at them and we need to revisit our decision. These are exactly the same tools Britt used in steering the Encap recommendation. We are longer performing due diligence, but rather being required to prove why our recommendations should carry more weight than the opinions of David Swensen, Bill Quinn, Bob Boldt, Jarvis Hollingsworth and Britt Harris.

My Spidey Senses are starting to tingle. Exactly what kind of deal did Britt strike with Dory and/or Jarvis on Thursday night / Friday morning before the board meeting? Thursday night Britt goes ballistic and rants for 2 1/2 hours in a public restaurant after Dory tells him that his senior management has turned on him and the Board is taking away his discretion; At the same time Jarvis plays apparently plays "good cop" and says "maybe not." Talk about role reversal. We wake up Monday morning at the entire issue has disappeared with no explanation.

Eric, how did today's meeting with Bob Boldt / Agility meeting go?

-----Original Message-----

From: MacDonell, Allen

Sent: Wed 2/20/2008 10:32 PM

To: Green, Michael; Lang, Eric

Subject: RE: Aldus looks like a go

What dd on Aldus? I have not done anything, last I heard was that Britt said he was handling whatever this was by himself.

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From: Green, Michael  
Sent: Wed 2/20/2008 8:24 PM  
To: MacDonell, Allen; Lang, Eric  
Subject: Aldus looks like a go

Just got an email from britt telling us to finish the dd on aldus.

This, kkr, cd&r ... It's like that dinner never happened.

Michael Green  
Director, Principal Investments  
Teacher Retirement System of Texas  
214-512-5115

**From:** [Green, Michael](#)  
**To:** [Strange, Ashley](#);  
**Subject:** RE: Dealogic info  
**Date:** Wednesday, June 04, 2008 5:15:35 PM

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Is it something that can be run easily? I'll talk with Barrett or Dory.

-----Original Message-----

From: Strange, Ashley  
Sent: Tuesday, June 03, 2008 3:30 PM  
To: Green, Michael  
Subject: FW: Dealogic info

I don't think anyone else is as familiar with this as I am. I set up the search already but it needs to be re-run. Is it ok to wait until Monday?

-----Original Message-----

From: Barrett Kingsriter [<mailto:bkingsriter@cstreetcap.com>]  
Sent: Tue 6/3/2008 1:26 PM  
To: Strange, Ashley  
Subject: RE: Dealogic info

Hey Ashley,

Sorry to bother you on vacation! I understand you won't be back until Monday, but I was hoping there might be someone else there who could help us out before then...Dory is pretty anxious to get the data. Do you think there's anyone else or do we need to just wait until you're back on Monday? Thanks again for responding and have a great vacation!

Barrett

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Barrett Kingsriter, Esq.

Commerce Street Capital, LLC

From: Strange, Ashley [<mailto:ashley@dealogic.com>]  
Sent: Tuesday, June 03, 2008 1:10 PM  
To: Barrett Kingsriter  
Subject: RE: Dealogic info

Barrett--

I'm out on vacation this week. Could I respond to you Monday?

-----Original Message-----

From: Barrett Kingsriter [<mailto:barrett@dealogic.com>]  
Sent: Tue 6/3/2008 9:45 AM  
To: Strange, Ashley  
Subject: Dealogic info

Ashley,

I work for Dory Wiley and you were kind enough to help us out with some Dealogic information in the past. I was hoping that you could find some updated information on the financial services sector as a percentage of private equity investment (by deals and by deal value). Also, I was hoping to find a breakdown of the financial services sector (ie: banks, insurance, etc.) and to determine if Dealogic can break down private equity investment specifically in banks.

Any idea if this is possible? Thanks for your help and feel free to call me anytime at 214-777-7777. Thanks!

Barrett

Barrett Kingsriter, Esq.

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