



April 13, 2010

The Honorable Paul Fong  
Chair of Assembly Elections & Redistricting Committee  
California State Assembly  
State Capitol, Room 5135  
Sacramento, California 95814

Re: Opposition to California Assembly Bill 1743

Dear Chairman Fong,

This letter is written to express my views regarding CA Assembly Bill 1743 ("the Bill"), including my fear that the Bill will have a material negative effect on small, independent broker-dealers conducting placement agents services in California, firms like mine, while stopping short of curbing the abuses it seeks to address.

Firstly, let me state that I agree that legislation designed to increased transparency and hold qualified officials and financial professionals accountable for objective investment decision free of inappropriate influence is necessary. As the owner of a small firm, I value reputation and integrity above all else and I am anxious to level the playing field. I recognize that to be successful, we must at all times remain committed to honest interactions with investors and other professionals, full disclosure or any real or perceived conflicts of interest, ethical standards of conduct, and regulatory compliance. For these reasons, I applaud continued efforts to protect the integrity of public pension fund investment decisions through legislation designed to remove conflicts of interest and keep the interests of workers, retirees, and taxpayers at the forefront.

For instance, having recently complied with the requirements in connection with a placement, I am respectful of the additional layers of disclosure required under CalPERS Consultant Statement of Policy for Disclosure of Placement Agent Fees<sup>1</sup> (CalPERS Policy). I am confident that this manner of full disclosure of conflicts of interest, terms of payment, background, experience and registration status of all involved parties is critical to maintaining transparency and is adequate to identify and prevent the types of abuses that have unnerved our confidence in the current system. In fact, I urge you to allow the CalPERS Policy more time to demonstrate its effectiveness before introducing additional legislation

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<sup>1</sup> CalPERS Investment Committee adopted new disclosure requirements under the Total Fund Statement of Investment Policy in May 2009. The CalPERS Policy as amended provides for significant new disclosure, and much greater transparency. The CalPERS policy also provides meaningful definitions including a definition of placement agent.

As for the Bill itself, I wish to address a few concerns in order of their importance to my firm:

The prohibition on contingency fees would materially affect my business, would dramatically impact my profitability, and would cause me to reevaluate or possibly abandon the placement agent business line. Over the past year, fees I have collected resulting from placements represents 62% my firm's overall revenue. The fees we earned are the result of diligent research and analysis of the funds we represent, preparation of meaningful and accurate presentation materials and a thorough understanding of the specific investment interests of public funds seeking investment. In nearly all cases<sup>2</sup>, we clearly understood that we were working without compensation unless or until we exactly matched a public fund's needs with our manager's offering. With long sales cycles of up to 18 months, absent the opportunity to earn a living commensurate with our efforts, we would not have been able to represent these funds, nor likely would any other placement agent. Since the funds we represent are largely minority-owned or emerging managers, the impact on my firm is compounded significantly by the impact on the managers we might represent, negatively and materially impacting numerous thriving and otherwise compliant and meaningful California businesses, including my own.

Lobbyist registration and compliance with lobbyist rules is not an appropriate regulatory regime for my firm. Under the California definition, a lobbyist is one who is compensated for influencing the decisions of qualified officials in legislative and administrative matters. This is not the service I perform, and it assumes that I will have direct access to qualified officials, which rarely if ever occurs. Rather, the service I perform is already adequately defined in CalPERS' definition of placement agent<sup>3</sup>.

Further, under FINRA regulations, lobbyist disclosure requirements are redundant, because I am already subject to stringent requirements that impose a maximum of \$100 annual for gifts, restrictions and limitations on and disclosure of political contributions, requirements for the ongoing review and approval of all forms of non-cash compensation, business entertainment, and other concessions, firm training requirements, other continuing education, and many other rules and regulations.

As a registered broker-dealer, my firm submits to onsite inspections by FINRA on a regular cycle, and is also subject to periodic inspection by the SEC and/or the State of CA.

In addition, I am aware of FINRA initiatives to enhance and expand its regulation of placement agents, including a sweep/survey currently underway in the CA FINRA

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<sup>2</sup> Of the emerging funds we represented over the past 12 months, only one paid a fixed monthly fee for our representation and related consulting services.

<sup>3</sup> See CalPERS Total Fund Statement of Investment Policy, May 9, 2009, Glossary of Terms.

District offices. I strongly believe that the current regulatory and enforcement regime, along with a commitment on behalf of FINRA to tailor new regulation to placement agents<sup>4</sup> is appropriate and effective to regulate my business.

The Bill appears to be overbroad in that it would require my registration as a lobbyist even in those circumstances where my relation to an investment by a CA public fund would be at arm's length, as when a CA public fund may invest in a Fund of Funds, which ultimately invests in a fund I represent. In this instance, I am far removed from any position of real or perceived undue influence, and yet I would be required to register and comply with lobbyist requirements as defined in the Bill.

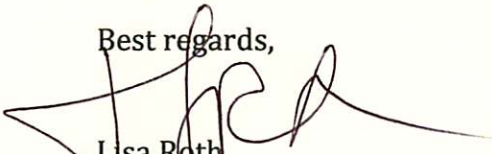
Although I do not currently have representatives engaging in placement agent services outside the state of CA, the Bill calls for training to be administered in and by the state. This condition will limit my abilities to grow my business, and will be unduly burdensome for out-of-state firms who are forced to transport agents into the state for training.

In summary, I am most very confident that the steps that CalPERS has already taken in expanding its disclosure requirements are adequate to detect and prevent abuses resulting from inappropriate influence. I urge you to allow these existing policies to work for a time, to demonstrate that they can and will be effective.

Please consider these comments in the context of establishing a constructive dialogue with yourself and the committee members who will ultimately determine the best means of stopping the abuses of a few bad actors.

I hope you will feel free to contact me for clarification of my views, or for more information, if required.

Best regards,



Lisa Roth  
Chief Executive Officer  
619-283-3107

Cc: Assemblyman Hernandez  
Members, Assembly Elections & Redistricting Committee  
Ethan Jones, Chief Consultant, Assembly Elections & Redistricting Committee  
Daryl Thomas, Republican Consultant, Assembly Elections & Redistricting Committee

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<sup>4</sup> I reference Rick Ketchum's (FINRA CEO) letter to Andrew Donohue (Director, SEC Division of Management) dated March 15 2010, and currently published on the SEC website at <http://www.sec.gov/comments/s7-18-09/s71809-260.pdf>.