

# PERAC

PERAC Memo # 15 / 2017

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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## MEMORANDUM

TO: All Retirement Boards *Joseph E. Connarton*  
FROM: Joseph E. Connarton, Executive Director  
RE: STS/LStar Event  
DATE: March 9, 2017

Recently, retirement board members received an invitation to an event at Gillette Stadium regarding a prospective investment. Please be advised that assets of retirement systems cannot be directly invested in real estate. Also this event raises a potential violation of PERAC's Placement Agent Policy (see attached) as the sponsoring entity (STS) does not appear to be registered with the SEC as required.

Some confusion has been created by the assertion in the invitation that the event is somehow sponsored by MACRS. Please see the attached statement by MACRS President Kathleen Kiely-Becchetti which makes it clear that MACRS is not involved in any such sponsorship.

Thank you for your attention in this matter.

Att



The Commonwealth of Massachusetts  
**PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION**  
5 Middlesex Avenue, Suite 304  
Somerville, MA 02145  
(617) 666-4446

**POLICY NO.: 11-1**

**PERAC Placement Agents Policy**

**I: Definitions**

**II: Manager Responsibilities**

**III: Board Responsibilities**

**IV: Penalties**

**V: Contract Terms**

**VI: Campaign Contributions**

**VII: Effective Date**

**I: Definitions**

The following words and phrases as used in this policy, unless a different meaning is plainly required by context, shall have the following meanings:

“Manager”, investment partners with whom retirement boards do business, including, but not limited to, general partners, investment managers, sponsors of hedge funds, private equity funds, real estate funds, infrastructure funds and any entity which a retirement board delegates discretionary investment authority.

“Placement agent”, any person or entity hired, employed, engaged, retained by or acting on behalf of or otherwise receiving remuneration from a manager or another placement agent as a finder, solicitor, marketer, consultant, broker or other intermediary in relation to the investment of assets of Massachusetts public pension systems, including any person or entity which provides proactive consultant services concerning the changing political and policy environment in New England and nationally as it relates to retirement plans, notwithstanding the description of such services as informational consulting services, only not involving the referral of investment advisory services, provided, however, this policy shall not apply with respect to in-house employees of investment managers.

**II: Manager Responsibilities**

(1) Each manager is responsible for providing the following information to the board and PERAC in conjunction with responding to an RFP or solicitation,

commencing discussions relative to amending an agreement between the manager and the board, or entering into discussion, other than informal, general discussions, that may lead to any of the above referenced actions.

- a. a statement whether the manager or any principal, employee, agent or affiliate has compensated or agreed to compensate, directly or indirectly any person or entity to act as a placement agent in connection with investment by the Massachusetts public pension systems;
- b. a resume for each placement agent detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former member of a retirement board, employee or consultant or immediate family of such a person that fact should be specifically noted;
- c. a description of any and all compensation of any kind provided or agreed to be provided to a placement agent and/or entity acting as a placement agent in connection with investment by Massachusetts' public pension systems, including the nature, timing and value thereof;
- d. a description of the services to be performed by the placement agent and/or entity acting as a placement agent and a statement as to whether the placement agent is used by the manager with all prospective clients or only a subset of clients or only Massachusetts public pension fund clients;
- e. a written copy of any and all agreements between the manager and the placement agent and/or entity acting as a placement agent in connection with investment by Massachusetts' public pension systems;
- f. in the event that any current or former Massachusetts public pension system board members, employees, consultants or other service providers have suggested the retention of the placement agent, the names of any current or former Massachusetts public pension system board members, employees, consultants or other service providers who suggested the retention of the placement agent;
- g. a statement that the placement agent has a minimum of three years experience in the investment field; and,

- h. a statement that the placement agent and/or entity acting as a placement agent is registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority, or, if appropriate, the Commodity Futures Trading Commission and the details of such registration.

### **III: Board Responsibilities**

(1) The retirement board is responsible for providing the following to managers and prospective managers:

- a. a copy of this policy and appropriate PERAC forms as part of the selection process for investment or engagement;
- b. a copy of this policy and appropriate PERAC forms at the time discussions are initiated with respect to amendment of agreements or other actions noted above;
- c. reviewing placement agent and/or entity acting as a placement agent information disclosures, in detail, as part of the due diligence process;
- d. compiling an annual report containing the names and amount of compensation agreed to be provided to each placement agent and/or entity acting as a placement agent by each manager as reported in the placement agent information disclosures and disclosing the report to the public by posting on the board website and/or posting in a readily accessible site at the retirement board offices;
- e. reporting to PERAC any material violations of this policy as soon as practicable after discovery of such violations.

### **IV: Penalties**

(1) PERAC shall withhold regulatory approvals and acknowledgments if:

- a. the placement agent and/or entity acting as a placement agent information disclosure or other information reveals that the placement agent and/or entity acting as a placement agent that the

manager has used is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or, if appropriate, the Commodity Futures Trading Commission;

- b. the placement agent and/or entity acting as a placement agent information disclosure or other information reveals that the placement agent does not possess three years experience in the investment field.

(2) PERAC shall prohibit any manager or placement agent from soliciting new investments from any board for a period to be determined by the Commission after the manager or placement agent has committed a material violation of this regulation.

#### **V: Contract Terms**

(1) Each contract and amendment to an existing contract as of January 1, 2012 shall secure the agreement of the manager in the final written agreement between the board and the manager to provide the board with the following remedies in the event the manager knew or should have known of any material inaccuracy or omission in the placement agent information disclosure or any other violation of this policy:

- a. whichever is greater, the reimbursement of any management or advisory fees paid by the board for the prior two years or an amount equal to the amounts paid or promised to be paid to the placement agent as a result of the board investment;
- b. the authority to immediately terminate the investment management contract or other agreement with the manager without penalty, to withdraw without penalty from a limited partnership, limited liability company or other investment vehicle, or to cease making further capital contributions (and paying any fees on these recalled commitments) to the limited partnership, limited liability company or other investment vehicle without penalty; and,
- c. provisions requiring the manager to annually inform PERAC and the board of any arrangements in oral or in writing, for compensation or other benefit received or expected to be received by the manager or a related person from others in connection with the manager's services to the board or any other client, provisions requiring the manager to annually disclose to PERAC and the board any compensation, in whatever form, paid or expected to be paid,

directly or indirectly, by the manager or a related person to others in relation to the manager's services to the board or any other client, and provisions requiring the manager to annually disclose to PERAC and the board in writing any conflict of interest the manager may have that could reasonably be expected to impair the manager's ability to render unbiased and objective services to the board.

Each contract and amendment to an existing contract as of January 1, 2012 shall secure the agreement of the manager in the final written agreement between the board and the manager that the manager shall be solely responsible for, and the board shall not pay (directly or indirectly), any fees, compensation or expenses for any placement agent used by the manager.

#### **VI: Campaign Contributions**

- (1) Candidates for board membership shall disclose to the board and the Commission the names of those who have contributed that are active in the investment field, including placement agents, and the amounts of campaign contributions made to the candidate relating to the member's campaign as treasurer, if applicable, or his campaign to become a member of the board.

#### **VII: Effective Date**

This policy applies to all agreements with managers entered into after January 1, 2012 or agreements to amend existing agreements made after that date (including by vote, consent or waiver by limited partners/investors or a subset of the limited partners/investors or separate side agreement or agreement to amend a side agreement) to continue, terminate or extend the term of the agreement or investment period, increase the commitment of funds by the pension system or increase or accelerate the fees or compensation payable to the manager.

#### **VIII: Statement of Intent**

In promulgating this policy PERAC is not endorsing or discouraging the use of placement agents.

Dear MACRS Member:

You may have received an email from [MACRS@stscapital.com](mailto:MACRS@stscapital.com) inviting you to attend an investor presentation exclusively for MACRS Members. **Please be advised that the email was not generated by MACRS and MACRS has not partnered with STS Capital, an international mergers and acquisition firm with its primary office in Canada. Further, STS Capital did not have the express permission of MACRS to use our organization's name in their email address or our logo on their materials.**

MACRS prides itself on educating Retirement Board Members and the community as a whole and would never promote or encourage violations of our state laws or fiduciary duties. Also, MACRS would never communicate with our members through a third party. Understandably, the email caused a great level of confusion for which I apologize.

Very truly yours,

Kathleen Kiely-Becchetti