

DEPARTMENT OF CITY CLERK

CITY HALL

SEPTEMBER 5, 2008

The Board of Investment Commissioners meets this day at 10:00 o'clock A.M., in The Conference Room, Third Floor, City Hall.

PRESENT: Vice-Chairman Bruce Miller; Councilman John J. Iglizzi and Myrth York – 3.

ABSENT: Chairman Mayor David N. Cicilline, Chairman; Stephen T. Napolitano; Allan M. Edwards and Craig Baker – 4.

Also present are Jeff Fabrizio (Via Conference Call); Lori L. Hagen, Second Deputy City Clerk and Tina L. Mastroianni, Assistant Clerk.

EMERGENCY MEETING RELATIVE TO THE APPRAISAL OF HOLLAND & KNIGHT, LLP – ZERO STAGE CAPITAL PAYOUT

(Due to the lack of a quorum an informational meeting was held.)

MR. FABRIZIO: Let me review. Zero Stage Capital Fund 7, that fund is in the process of winding down. There are a few remaining companies that are left to be liquidated. And, as of my last conversation with Matt Kelly over at Zero Stage, those companies are due to be liquidated and the proceeds sent pro rata to all the LPs by year end. In addition, as we have been telling you, the – there is also going to be a gift back to the LPs, meaning that Matt Kelly and Paul Kelly, Paul Kelly is the senior person at Zero Stage and Matt is his son, they collectively have decided to put two million or give two million dollars back to the LPs, again, pro rata by year end. So, those are the two issues that we have been talking to you about.

There is a third and distinct issue that has come up within the past couple of months that we are here to talk to you about today. That has to do with a limited release issue by Zero Stage Capital. Incidentally, Zero Stage Capital, the entity, is now defunct. It is now out of business so when I say Zero Stage Capital I'm really referring to the entity that you had initially invested with. The MBTA Retirement Fund, which is a public fund in Massachusetts, is also an investor in Fund 7 and

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they conducted an investigation into the fees that were paid to Zero Stage Capital for investment advisory with regards to this fund and have determined, through legal investigation, that some of the fees that were paid to Zero Stage Capital were excessive and they had brought a point to them that has resulted in this limited release. And, what you have in front of you is a limited release that Zero Stage Capital is offering to all of the investors in Fund 7. That release is the amount of \$919,100.00 and of that amount \$700,770.00 dollars will be paid back to the MBTA to help defray their expenses in conjunction with legal investigation. What is left over will be distributed pro rata to the investors. Now, for the City of Providence that amounts to approximately forty two, forty three thousand dollars somewhere in that vicinity. You are a 5% investor in Fund 7 and as a 5% percent, as you can imagine, you are deemed to be a pretty significant investor. This issue had come up beginning of this past June but because we haven't had the opportunity to meet the first time that we have had a chance to formally present this to the board was at our last meeting last week.

VICE-CHAIRMAN MILLER: Hey, Jeff.

MR. FABRIZIO: Yes.

VICE-CHAIRMAN MILLER: The Mayor's coming in momentarily.

MR. FABRIZIO: Okay.

VICE-CHAIRMAN MILLER: I'm going to ask you to, kind of, do an abbreviated overview for him.

MR. FABRIZIO: Okay. Is he there now?

VICE-CHAIRMAN MILLER: He will be in about two minutes.

MR. FABRIZIO: Okay. Just let me know when he's there and I'm happy to give him a briefing.

VICE-CHAIRMAN MILLER: Okay.

MR. FABRIZIO: An abbreviated briefing.

VICE-CHAIRMAN MILLER: I don't know how much. We can ask him whether he wants the high level or low level.

MS. YORK: The purpose of this meeting is to authorize the signing of the release of claims against the managers of Zero Stage Capital on the issue of fees. Is that a correct statement?

MR. FABRIZIO: As I understand it, that is correct.

MS. YORK: And in your opinion, we're not ever going to do any better than this anyway?

MR. FABRIZIO: That is correct. This is a ten year fund and of course we are at the end of these ten years.

MS. YORK: Okay.

MR. FABRIZIO: So, in addition to that, Zero Stage Capital is no more. So Zero Stage Capital, the entity, will no longer be offering any additional funds. In addition to that, Paul Kelly who was the senior person at Zero Stage has since retired. So, not only will the firm not be offering any new funds but Paul Kelly himself will not be running any funds.

MS. YORK: Okay.

MR. FABRIZIO: That is not the same for Matt Kelly. He's a younger guy about forty-five and might be doing some other things. But, as far as your investment at Zero Stage, this is really it.

VICE-CHAIRMAN MILLER: Hey, Jeff.

MR. FABRIZIO: Yes.

VICE-CHAIRMAN MILLER: The Mayor has just walked in.

MR. FABRIZIO: Okay.

VICE-CHAIRMAN MILLER: We're going to – with the Mayor here we can call –

MAYOR CICILLINE: Okay we're going to call the meeting to order I'd like to first ask the clerk to call the roll.

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PRESENT: Mayor David N. Cicilline, Chairman; Bruce Miller, Vice-Chairman; Councilman John J. Igliazzi and Myrth York – 4.

ABSENT: Stephen T. Napolitano; Allan M. Edwards and Craig Baker – 3.

MAYOR CICILLINE: I want to state for the record that this meeting has been convened as an emergency meeting to address an issue which has a critical deadline that we have to meet as a board. And with that I'll turn it over to –

VICE-CHAIRMAN MILLER: Jeff.

MAYOR CICILLINE: -- Jeff on the telephone.

MR. FABRIZIO: Thank you. Just to recap briefly the issue that we have in front of us here, Zero Stage Capital is offering to all of their investors in Fund 7 a limited release. Now, do the board members have a copy of this release in front of them?

COMMITTEE: Yes.

MR. FABRIZIO: Okay. As you know, we've been talking to you about different things with regards to Zero Stage Capital and this particular issue is something separate and distinct that has come up in the first week of June. The MBTA Retirement Fund, which is a public fund here in Massachusetts, is also an investor in Fund 7. They have conducted an investigation with regards to Zero Stage Capital and the fees that were paid to them, in conjunction with the management of Fund 7 and have determined that the fees paid to them were slightly excessive. And through a legal process between them, the attorneys and Zero Stage Capital they have come up with this limited release that you see in front of you. And the purpose of the release is to, of course, reimburse on a pro rata basis those fees that were deemed to be excessive. The total amount of the fee that was deemed to be excessive is \$919,100.00, of that amount \$77,707.00 will go right back to the MBTA to help compensate them for their costs in pursuing this investigation. What is left over, approximately \$84,000.00, will be distributed pro rata to the LPs who sign this limited release form. For the City of Providence that

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equates to approximately forty-two, \$43,000.00 somewhere around there. You are, as percent of the fund, are slightly over 5% and as a 5% investor you're deemed to be pretty significant. Again, this release has, this issue had first presented itself in the first week of June but because we haven't been able to meet the first time that we have been able to present it to the board as a whole was last Thursday. The deadline for signing this form is today. Now, after our meeting last Thursday I had a phone call with the attorneys who are organizing this and they had come back to me Friday morning one week ago and said we need the approval from the City of Providence in one week, no later than one week, one week being today.

Otherwise, Zero Stage Capital will consider proceeding without the City of Providence which would mean that you would forfeit the opportunity to get your \$43,000.00. Bruce and I had a conversation and I went back to the attorneys and I said well due to scheduling reasons we just simply haven't had a chance to address this, would you allow us an extension two weeks from today in order to get this done. And the response that I got was yes we would allow it, we would give you until the 19th to review this and sign it. I made clear it to them that they were interested, that you were interested in signing it, but would like to get funneled through your legal department where it was a legal document and I said to them I believe that to be prudent and they said fine. But, in order to give you that deadline they would need some sort of reassurance from you verbally that you have every intention of signing it. And I said that I will discuss that with the board, as we're doing today and I said I don't think that will be a problem, but of course I don't want to speak for the board. You should note, too, that Fund 7 is run by Zero Stage Capital however, Zero Stage Capital is no more. That firm is now defunct so, there will be no more funds offered by the entity Zero Stage Capital. In addition to that, the chairman there, Paul Kelly, who is the man overseeing this Fund and depending on the year was the man running the day-to-day operations is an older gentleman who is now retired. So, not only will there be no more funds

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from Zero Stage Capital there will be no more funds managed by Paul Kelly. Now his son, who was also working at Zero Stage Capital when it was in business, is a younger guy about forty-five, forty-six thereabouts, he might be doing some different things under a new, different entity. However, this will be your last interaction with "Zero Stage Capital". The fund itself that you are invested in is in the process of the very tail end of winding down. There are three portfolio companies left to be liquidated and as of my last conversation with Matt Kelly, that is due to be all wound up by the end of this year. So, we are really at the tail end of your Zero Stage investment and Zero Stage Capital experience. So, I don't expect to hear anything beyond this, beyond what we know, what we're discussing today, unless, of course, there is some new information that comes up after this time.

MAYOR CICILLINE: Okay. In light of that what I would recommend is I would entertain a motion to authorize the execution of this release and the recovery of these funds subject to review by the Law Department. If the Law Department wants to review this and make a counter recommendation we'll reconvene the Board before the 19th but otherwise, we're going to authorize that they execute the document.

COUNCILMAN IGLIOZZI: I'll make that motion.

MS. YORK: I'll second.

SECOND DEPUTY CITY CLERK: Roll call vote.

On the motion of Councilman Igliazzi, Seconded by Ms. York it is voted to authorize the execution the release, relative to Zero Stage Capital for the recovery of Funds.

AYES: Mayor Cicilline, Chairman; Vice-Chairman Miller; Councilman John J. Igliazzi and Ms. York – 4.

NAYES: None.

NOT VOTING: None.

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ABSENT: Mr. Napolitano; Mr. Edwards and Mr. Baker – 3.

Motion carries.


MAYOR CICILLINE: Seeing no further business, I'll entertain a motion to adjourn.

COUNCILMAN IGLIOZZI: So moved.

MS. YORK: Second.

ADJOURNMENT: On the motion of Councilman Igliazzi, Seconded by Ms. Myrth York it is voted to adjourn the meeting at 10:55 o'clock A.M.


Second Deputy City Clerk


Assistant Clerk