

Tony Butka

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September 21, 2015

John Chiang  
California State Treasurer  
P.O. Box 942809  
Sacramento CA 94209-5872

Via FAX and Mail

Re: CalPERS and Private Equity

Dear Treasurer Chiang:

In March of last year I wrote a letter to the CalPERS Board and CEO Anne Stausboll, regarding danger signs in the deliberate and massive secrecy surrounding the plans private equity investments. I also copied you on my letter and sent a FAX (copy attached).

While my letter was prompted by a public records request, the underlying reason for my letter was the recent criminal scandal at CalPERS involving ex-CEO Fred Buenrostro and ex-CalPERS Board Member Alfred Villalobos. Their sins were over private equity. Even though most of their conduct was from 2005 to 2008, the resulting head-in-the-sand whitewashing and hand-wringing extended through a very expensive CYA Steptoe Report not released until 2011. Also, there's the fact that Buenrostro and Villalobos were not actually indicted until August 2013 for their fraud and corruption. Then, after Buenrostro cut a deal and rolled over on his buddy, Villalobos was further indicted on bribery and corruption in 2014. The final chapter in this mess is still not complete, even after Villalobos committed suicide in early 2015 right before his scheduled trial. Recent news articles indicate that Buenrostro is still the 'gift that keeps on giving', so he will not be sentenced until at least December of this year!

If it takes from 2005 to 2015 to handle one scandal, how long is it going to take to handle the recent revelations that as of the August CalPERS Investment Committee meeting, key staff members of CalPERS were, putting it politely, deliberately giving inaccurate and misleading information to the CalPERS Board regarding the same private

equity issues that were at the heart of the Buenrostro/Villalobos scandal? A decade? Almost worse, our elected Board members at the meeting were evidently too busy defending the staff to remember that when they were running for office, there was a little thing called 'fiduciary duty' which goes with becoming an elected CalPERS Board member. Maybe they should read up on it. As a retired State Mediator who depends on his pension for the remaining years, I am both appalled at this conduct and frightened over the potential long term implications for CalPERS future.

Clearly you are aware of the underlying issue of private equity fees and expenses; otherwise you never would have co-signed the July 21st letter to SEC Chair Mary Jo White, along with the other 12 officials from various states.

I am writing you because anyone with a brain knows that waiting for the SEC or Federal Government to do something about the financial services industry is simply a rewrite of Beckett's *Waiting for Godot*.

I have liked and supported you ever since you ran for the Board of Equalization, and I know that having worked with Gray Davis in the Controller's office, in addition to your tenure at the Board of Equalization, gives you a unique perspective on the technical issues of private equity. As State Treasurer you are the one person in a position to actually do something about this mess.

CalPERS CEO Anne Stausboll has made it clear over the years that her *Open Letter to Stakeholders* of 2011 promising honesty, openness and transparency was just so much fluff. Her actions demonstrate that she is going to support her staff, right or wrong, assuming that she has the technical expertise to understand the underlying right and wrong of the subject matter.

I find her position unfortunate. In a career mostly working in the public sector, I believe that the single issue which makes most citizens distrust government employees is the abuse of their power as public servants. The recent flurry of news posts about the conduct of staff during the August CalPERS Investment Committee meeting, as demonstrated by the actual videotapes which are publicly available, make a case that Real Desrochers and Ted Eliopoulos, as well as Christine Gogan, are very well compensated and high level public employees who have breached this trust.

In most California jurisdictions I have worked with during my career, dishonesty and lying, be it explicit or implicit, is conduct unbecoming a public employee and is cause for a Notice of Intent to discharge. And in California, with our vested property rights to employment, there are more than adequate safeguards against wrongful discipline.

I have found you to be a very smart and seasoned politician during your career, and you are in the right place at the right time. I have faith in you. On behalf of myself and the over 1.5 million beneficiaries (if you include the families) of the CalPERS system, I am pleading with you to intervene in this growing scandal to right the biggest, most influential, and at least used-to-be best public pension plan in the United States of America.

Sincerely,

A handwritten signature in black ink that reads "Tony Butka". The signature is written in a cursive style with a large, prominent "T" and "B".

Tony Butka  
retired Presiding Conciliator  
State Mediation & Conciliation Service

A large black graphic of a fax machine with a white circular dial on top. The word "FAX" is printed in white, bold, sans-serif capital letters across the front of the machine.

# FAX

For: John Chiang, Controller

Fax number: (916) 322-4404

From: Tony Butka

Fax number: 323-478-9328

Date: 3/16/2014

Re: Information Request to CalPERS

Number of pages: 4 (including cover)

I am sending you a copy of the letter which went out to the CalPERS Board on 3/13/14, with a public records request as well as a request for information as a Plan member. I have noticed that sometimes recipients of copies of letters do not actually receive them -- this is designed to ensure that you get a copy of the letter.

I believe that the issue contained in the request is of sufficient importance that you should at least see it.

Thank you,

Tony Butka

CalPERS Retiree

If you need anything else, just call me at 323-791-7367 or email [butka2@yahoo.com](mailto:butka2@yahoo.com)

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Rob Feckner, President  
CalPERS Board of Administration  
P.O. Box 942701  
Sacramento CA 94229-2701

March 13, 2014

Dear President Feckner & Board Members:

I am writing you and the Board as a retired employee member of the CalPERS pension system. Once again the names of private equity, CalPERS, and secrecy are bandied about in conjunction with one another. I am writing to obtain information because I believe that you and the Board owe me a fiduciary duty as a member of CalPERS,

Specifically, Susan Webber of the **Naked Capitalism** blog recently made a public records request to CalPERS for records of private equity return information for the funds. This would seem to be a reasonable request, and one of interest to me as a member of the system, since it is common knowledge that CalPERS is one of the largest private equity players in the nation.

What is less commonly known by CalPERS members, although one would hope that the current Board is up to speed, is that playing fast, loose, and in secret with private equity folks got CalPERS into a significant scandal not that long ago. I refer to the 2009/2011 special review of placement-agent activity in the fund which culminated in a March 2011 **Steptoe Report**. That Report came at a plan members cost of some \$11 million, and ultimately CalPERS wound up in litigation, suffered millions of dollars of losses to the fund, & criminal charges ensued.

As I recall, the scandal was possible because of attitudes like that of a CalPERS attorney in 2006 stating that "CalPERS has been advised by a number of general partners that CalPERS' current status as an 'investor of choice' will be damaged if we provide confidential information of the type requested..."

It was this exact kind of secrecy which got CalPERS in trouble the last time. And I remember that after the 2011 Steptoe Report CalPERS pledged openness and transparency so that these troubling events could never take place again.

In fact, Anne Stausboll, our current CEO, sent out an 'Open Letter to Stakeholders', making the Steptoe Report public and pledging a new era of openness so that PE abuses could never happen again. Interestingly, when I went to the CalPERS website to find the document, it had been removed.

Fortunately I have an old copy of my *Spring 2011 PERSpective*, which does contain said Open Letter. I would like to highlight two quotes from our CEO's comments:

- 1) "...I commit that CalPERS will continue to face these issues and squarely take meaningful action to ensure that they do not happen again." ; and
- 2) "We are setting up new processes to improve timeliness and responsiveness to Public Records Act requests."

Really.

Seems to me that playing around with private equity firms while stonewalling requests for information on how they have performed for the fund under the guise of 'confidentiality' is what allowed the last mess to occur. As an optimist I'm choosing to believe that underneath all of these events that there is nothing really wrong this time and that somewhere in the chain of command someone evidently forgot the agency's commitments to its stakeholders.

On the other hand, as a prudent exercise in due diligence, as a member of the CalPERS pension plan (as well as someone covered by the California Public Records Act), I am making the same request that Susan Webber of *Naked Capitalism* did for information on private equity returns. Separate from any purported 'legal issues' over the *Naked Capitalism* request, I believe that as an actual member of

the system you owe me this information as a part of your fiduciary duty to your members, not to mention all of the repeated promises of openness and transparency.

Hopefully, during the Board's February 18-20 Meeting last month, these issues were all addressed and are in the process of resolution. I would think that particularly John Chiang and Bill Lockyer (both of whom are very smart folks whom I deeply admire), as elected officials of the State of California, have familiarity with all of this history, and would be particularly sensitive to the needs for openness and transparency.

I also believe that if Anne Stausboll's 2011 Open Letter to Stakeholders meant anything, not to mention your own statements at the time, there should be no problem in providing me with the requested information. I eagerly await your response.

Sincerely,



Anthony (Tony) Butka

Retired Presiding Conciliator,

State Mediation & Conciliation Service

Cc:

John Chiang, State Controller

Bill Lockyer, State Treasurer

Henry Jones (Retired members Representative, CalPERS)

Kathleen K. Webb (Chief Officer for Risk, Compliance & Ethics, CalPERS)



**FAX**

For: John Chiang, State Treasurer

Fax number: 916-653-3125

From: Tony Butka 

Fax number: 323-478-9328

Date: 6/20/2013

Re: CalPERS and Private Equity

Number of pages: 7

I am attaching my letter of today's date to you regarding the August 2015 CalPERS Investment Committee meeting.

I believe that you and your office may be the only means of addressing the issues addressed in my letter.

If you need anything else, just call me at 323-791-7367 or 323-478-9328.

Tony Butka

CalPERS Retiree