

NEW YORK CITY CRIMINAL COURT  
NEW YORK COUNTY

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THE PEOPLE OF THE STATE OF NEW YORK : FELONY COMPLAINT

-against- : Special Deputy Attorney General  
Ellen N. Biben  
ALAN G. HEVESI, : 212-416-8058

Defendant. :

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STATE OF NEW YORK )  
) ss:  
COUNTY OF NEW YORK )

DEPUTY CHIEF INVESTIGATOR GREGORY J. STASIUK of the Office of the Attorney General of the State of New York (the "OAG"), located at 120 Broadway, New York, New York, deposes and states the following:

From in or about January 2003 through in or about August 2006, in the County of New York and elsewhere, the defendant committed the offense of:

VIOLATION OF SECTION 200.25 OF THE PENAL LAW, a class E Felony, in that the defendant, along with his agents, accomplices, and co-conspirators, solicited, accepted and agreed to accept any benefit from another person, to wit: benefits conferred by Elliott Broidy ("Broidy"), a principal of Markstone Capital Partners ("Markstone"), including at least \$75,000 in travel payments, more than \$500,000 in campaign contributions, and more than \$380,000 in fees for a lobbyist pursuant to a sham consulting agreement, for having violated his duty as a public servant, to wit: for improperly favoring Markstone and approving New York Common Retirement Fund ("CRF") investments in Markstone.

## OVERVIEW OF THE SCHEME

1. This complaint arises from a more than three-year ongoing investigation with respect to transactions involving the Office of the New York State Comptroller (the “OSC”) and the New York State Common Retirement Fund (the “CRF,” the “Fund” or the “State pension fund”), of which the Comptroller is the sole trustee. The OSC and the CRF maintain offices in New York County.

2. The defendant Alan G. Hevesi (“Hevesi” or “the defendant”) was the New York State Comptroller from on or around January 1, 2003 through on or around December 22, 2006. As Comptroller and sole trustee of the CRF, Hevesi had a duty to protect CRF assets and act exclusively in the best interests of the CRF, its members and beneficiaries, free from political considerations and other improper pressures and to avoid and disclose conflicts of interest and the appearance of conflicts of interest. As set forth below, Hevesi violated this duty and permitted corruption of the CRF he was solely charged to protect.

### Culture of Corruption at OSC

3. Henry “Hank” Morris (“Morris”) was the chief political adviser to Hevesi both before and during Hevesi’s tenure as New York State Comptroller. David Loglisci (“Loglisci”) was the head of Alternative Investments and then the Chief Investment Officer for the CRF during Hevesi’s tenure as State Comptroller. Morris and Loglisci were separately charged under New York County Indictment No. 25/2009. Loglisci pled guilty to a Martin Act felony in satisfaction of that indictment in March 2010. The indictment against Morris remains pending in New York County Supreme Court Part 31.

4. That indictment charged Loglisci and Morris with multiple offenses, stemming from evidence showing that Morris, in addition to being Hevesi's paid political advisor, received fees and exercised authority in connection with alternative investments that were recommended by Loglisci and approved by Hevesi in his capacity as Comptroller and sole trustee of the CRF. The evidence further shows that Morris solicited contributions to Hevesi's re-election campaign from those doing and seeking to do business with the CRF, and that Morris used his access to Hevesi and others at the OSC in order to obtain favors and business for friends, family members, political associates, and contributors to Hevesi's campaign. This created a culture of corruption at the highest levels of the OSC during Hevesi's tenure as Comptroller. The charges alleged to date reveal a scheme whereby Morris and various political allies and friends reaped tens of millions of dollars in kickbacks, bribes and sham consulting and finder fees connected to CRF investments.

Hevesi's Corrupt Arrangement with Elliott Broidy and Markstone

5. Elliott Broidy ("Broidy") was a co-founder and Chairman of Markstone Capital Group, LLC, a private equity services firm that manages Markstone Capital Partners, L.P. ("Markstone"), a private equity fund that focuses on investments in Israel. Broidy was charged in a separate accusatory instrument and pled guilty to rewarding official misconduct in the second degree, a class E felony, in December 2009 in New York County Supreme Court Part 31.

6. Hevesi had a corrupt arrangement with Broidy, pursuant to which Broidy was given preferential treatment and advantages in his business dealings with the CRF and OSC, in exchange for which Broidy lavished Hevesi and others with luxury travel,

campaign contributions, and sham consulting fees that were concealed from CRF investment staff.

7. As Comptroller and sole trustee of the CRF, Hevesi had fiduciary and other duties to act exclusively in the best interests of the CRF and its members and beneficiaries. In violation of these duties, Hevesi improperly favored and approved \$250 million in CRF investments in Markstone. To provide further advantage to Broidy, Hevesi also used his position as Comptroller and sole trustee of one of the nation's largest state pension funds to encourage other public pension funds to invest in Markstone.

8. As a reward for Hevesi favoring Markstone and approving \$250 million in CRF investments in Markstone in violation of his duties as a public servant, Hevesi accepted and agreed that Broidy would pay nearly one million dollars worth of benefits consisting of travel expenses for Hevesi and his family, sham consulting fees to a third party, and campaign contributions as directed by Hevesi. Pursuant to this arrangement, and with Hevesi's knowledge and consent, Broidy made illicit payments for travel expenses and consulting fees, which were concealed through the use of false invoices and a sham consulting agreement, and made and arranged for more than \$500,000 in campaign contributions as directed by Hevesi.

## **FACTUAL ALLEGATIONS**

### **Sources of Information**

9. This information is based upon: (a) conversations with Broidy; (b) conversations with a certain former public official known to me ("Official A"); (c) my examination of contracts, e-mail messages, and business records maintained by

Markstone; (d) my examination of contracts, e-mail messages, and business records of the CRF; (e) my examination of bank records; (f) my examination of records of a charitable organization known to me (the “Charity”) and of the Charity’s travel agent (the “Charity’s Travel Agent”) known to me; and (g) my examination of campaign finance and other public records.

The crime was committed in the following manner:

10. Hevesi served as New York State Comptroller from on or around January 1, 2003 through on or around December 22, 2006. In this capacity, Hevesi was the sole trustee of the New York State pension fund, known as the CRF. The CRF maintains offices in New York County. As Comptroller and sole trustee of the CRF, Hevesi was obligated to act exclusively in the best interests of the members and beneficiaries of the CRF, free from political considerations and other improper pressures, and to avoid and disclose conflicts of interest and the appearance of conflicts of interest.

11. Based on my examination of business records maintained by Markstone and other public records, I am aware that Broidy was a managing partner of Markstone during the relevant time period, and had a financial interest in the success of Markstone.

12. I am informed by Broidy that in or about 2003, Broidy was seeking an investment from the CRF in Markstone. I am informed by Official A that he was a high-ranking officer at the CRF, and an advisor to the defendant with respect to investments made by the CRF, including private equity investments. Hevesi was the sole trustee of the CRF and therefore had sole decision-making authority at the CRF. Based on my examination of business records maintained by Markstone and the CRF, I am aware that

the CRF made an initial commitment to Markstone in or about June 2003. Records reflect that the CRF ultimately committed \$250 million to Markstone.

13. The information contained in this paragraph is based on my conversations with Broidy. With respect to the CRF's several investments in Markstone, between April 2003 and June 2006, Hevesi and Broidy made at least five trips to Israel together, one of which included a side trip to Italy. In connection with these trips, Hevesi accepted payments from Broidy for expenses incurred by Hevesi and his adult children. This included payments for lavish hotel accommodations and first-class airfare. In order to conceal these travel-related payments from the CRF's staff, as Hevesi knew, Broidy arranged for a charity to pay for the travel expenses, with the understanding that Broidy would reimburse the charity for the travel expenses. Hevesi knew that Broidy's travel-related payments were concealed from OSC staff and that false invoices were submitted to the OSC in connection with these payments.

14. I am further informed by Broidy that Hevesi, both personally and through his campaign fundraising staff, solicited Broidy for campaign contributions. Broidy has informed me that he provided or bundled campaign contributions totaling more than \$500,000 as directed by Hevesi. Also, with the defendant's knowledge and consent, Broidy paid in excess of \$380,000 to a lobbyist (the "Lobbyist") pursuant to a sham consulting agreement. In addition, Broidy informs me that he paid for expenses associated with several trips that Hevesi made to California for campaign fundraising purposes.

15. I am further informed by Broidy that he provided the aforementioned travel payments, campaign contributions and consulting payments in order to reward

Hevesi for having violated his duty as a public servant, and specifically for having improperly favored and approved the CRF's several investments in Markstone totaling \$250 million, and promoted Markstone to other public pension funds.

16. The information contained in this paragraph is based on my conversations with Official A. On at least five occasions between April 2003 and June 2006, Official A traveled with Hevesi, Broidy and others in connection with the CRF's several investments in Markstone. As detailed above, costs incurred by Hevesi, Official A and others in connection with these trips – including those for lavish hotel accommodations and helicopter tours – were subsidized by Broidy.

17. I am further informed by Official A that Hevesi and Official A recommended Markstone to several other public pension funds and alternative investment funds across the country.

18. I have reviewed records of the Charity, the Charity's Travel Agent, Markstone, and the CRF, relating to travel from the United States to Israel by Hevesi, Broidy, Official A and others. The records show that Broidy paid for more than \$75,000 in expenses incurred by Hevesi, his adult children, and others on these trips.

19. I have reviewed e-mail messages from members of Hevesi's campaign fundraising staff to Broidy, in which the fundraising staff solicited contributions on behalf of Hevesi. This includes an e-mail in which one of Hevesi's campaign fundraising staff identifies a list of third-party contributions that Hevesi's campaign attributed to Broidy, as well as a list of contributions that Broidy had pledged to obtain for Hevesi. I have reviewed public campaign finance documents that show that Broidy provided or bundled more than \$500,000 in contributions as directed by Hevesi.

20. I have examined bank and business records maintained by Markstone and the Lobbyist. These records show that between on or about January 16, 2003 through on or about November 25, 2005, a series of checks signed by Broidy were made payable to the Lobbyist's firm for a total of more than \$380,000.

21. Therefore, based on the above, the defendant, his agents, accomplices and co-conspirators solicited, accepted and agreed to accept any benefit from another person, to wit: benefits provided by Broidy including at least \$75,000 in travel payments, more than \$500,000 in campaign contributions and more than \$380,000 in fees to a lobbyist pursuant to a sham consulting agreement, for having violated his duty as a public servant, to wit: for improperly favoring Markstone and approving CRF investments in Markstone.

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A

MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW

Dated: New York, New York  
October \_\_, 2010

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GREGORY J. STASIUK  
DEPUTY CHIEF INVESTIGATOR