

NEW YORK CITY CRIMINAL COURT
NEW YORK COUNTY

----- X
: THE PEOPLE OF THE STATE OF NEW YORK : FELONY COMPLAINT
: :
: -against- : Assistant Attorney General
: : Noah Falk
RAYMOND B. HARDING, : 212-416-6286
: :
Defendant. :
: :
----- X

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

INVESTIGATOR GERARD J. MATHESON, SHIELD # 130, of the Office of the Attorney General of the State of New York, located at 120 Broadway, New York, New York, deposes and states the following:

From in or about June 2003 through in or about December 2005, and from in or about July 2005 through in or about November 2007, in the County of New York and elsewhere, the defendant committed the offenses of:

VIOLATIONS OF SECTION §352-C(6) OF THE GENERAL BUSINESS LAW, (3 Counts) a Class E Felony, in that the defendant, his agents, accomplices, and coconspirators intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and made material false representations and statements with intent to deceive and defraud, while engaged in inducing and promoting the exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property with a value in excess of two hundred and fifty dollars, to wit: (a) an introduction agreement related to a private equity investment, (b) fees related to that investment,

(c) fees related to a hedge fund of funds investment, and (d) fees related to a second private equity investment.

OVERVIEW OF THE SCHEME

1. This complaint arises from a two-year, ongoing investigation with respect to transactions involving the Office of the 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 Raymond B. Harding (“Harding” or “defendant”) is an attorney and the former Chair of the New York State Liberal Party. Henry “Hank” Morris (“Morris”) was the chief political adviser to Alan Hevesi, the New York State Comptroller from 2003 through 2006. David Loglisci (“Loglisci”) was the head of Alternative Investments and then the Chief Investment Officer for the CRF during the same time period. Morris and Loglisci are separately charged under New York County Indictment No. 25/2009 pending in Supreme Court Part 39, charging them with multiple offenses, including with respect to the CRF investment transactions in the Paladin Homeland Security Fund (NY), Pequot Diversified Offshore Fund, and Pequot Private Equity Fund IV described below.

3. As described below, from in or about 2003 through in or about 2006, the evidence shows that Morris and Loglisci inserted Harding as a sham placement agent on three CRF investment transactions. This generated hundreds of thousands of dollars in sham fees for Harding. In short, Morris and Loglisci used the CRF as a favor bank, rewarding Harding for past political favors and acts of political loyalty. Harding repeatedly delivered the Liberal Party endorsement to Hevesi in his campaigns for the Assembly, where he served from 1971 to 1993, for Mayor in 2001, and finally for State Comptroller in 2002. In addition, in 2005, Harding

helped to arrange alternate employment for a sitting New York State Assemblyman, so that upon the assemblyman's acceptance of that employment and resignation from the Assembly, Hevesi's son could take his seat.¹ Harding, together with Morris and Loglisci, concealed Harding's involvement in these transactions, as well as their own illicit arrangement, from CRF, OSC, and related private equity and hedge funds, among others.

FACTUAL ALLEGATIONS

Sources of Information

4. The information set forth below is based upon: (a) conversations with a founding partner (the "Paladin partner") of a private equity firm known as Paladin Capital Group ("Paladin"); (b) conversations with a partner (the "Pequot partner") of a private equity firm known as Pequot Capital Management, Inc. ("Pequot"); (c) conversations with a person known to me who was the compliance officer (the "Compliance Officer") of Shelbourne Securities LLC ("Shelbourne"); (d) conversations with a person known to me who was, during the relevant time period, a high ranking official ("Official A") at the OSC; (e) conversations with a former New York State Assemblyman representing Queens County known to me (the "Assemblyman"); (f) conversations with an executive (the "Executive") of a private company described below; (g) conversations with Investigator John Serrapica of the Office of the Attorney General ("Investigator Serrapica"), a forensic accountant who examined voluminous business records and bank records of Paladin, Pequot, and Shelbourne, among other records; (g) conversations with a former official of the CRF known to me; (h) my examination of contracts and business

¹ This complaint does not allege that Assemblyman Andrew Hevesi was aware of the machinations to vacate the seat which he then won in a special election in 2005, or that anyone from Pequot Capital Management was aware of the arrangement.

records maintained by Paladin, Pequot, Shelbourne, and the OSC; and (i) my examination of bank records.

The crimes were committed in the following manner:

PALADIN HOMELAND SECURITY FUND (NY)

Information Provided by Official A

5. Calendar entries for Official A show meetings between Official A and the defendant in early June 2003. According to Official A, the first meeting occurred at the defendant's request. During a series of related conversations with Official A, the defendant stated that he was having financial trouble and needed money to help pay his son's legal expenses and for other reasons. Accordingly, the defendant asked Official A to steer business from the OSC to the defendant.

6. Official A briefed another high-ranking member of the Comptroller's Office ("Official B"), who instructed Official A to discuss the matter with Morris, who maintained an office in New York County.

7. In a series of conversations with Official A, Morris explained in substance that he would arrange for the defendant to become associated with a pending investment transaction with the CRF. Official A understood that the defendant would financially benefit from this arrangement.

8. Subsequently, Official A met with Loglisci, the Head of Alternative Investments for the CRF at the OSC's offices in New York County. Loglisci had a fiduciary duty to make investment decisions solely in the best interests of the CRF. Notwithstanding this, Loglisci explained that he and Morris had arranged for the defendant to receive a substantial fee on an investment known as Paladin, and that the fee would be paid out periodically over time. Loglisci

indicated that the defendant would be happy with this arrangement. Official A understood that Loglisci was briefing him at the request of Morris, and Official A subsequently confirmed the same information with Morris.

9. Official A has informed me that he had an understanding with the defendant, Morris, and Loglisci that defendant was to be rewarded for his past political loyalty to the Comptroller. However, Official A was concerned that the defendant's name would be disclosed in public filings or paperwork concerning the investment with Paladin. Disclosure would expose the fact that the OSC was using the CRF as a favor bank to repay political favors with financial reward, which, according to Official A, it was in fact doing. Official A expressed this concern to Loglisci, who in substance told Official A not to worry because Loglisci controlled the only document where the defendant's name would be disclosed concerning the deal. Official A understood this to mean that Loglisci would ensure that there would be no public disclosure of the defendant's involvement in the deal.

Information from Paladin Partner

10. In or about the spring and summer of 2003, Paladin was seeking to raise capital from various institutional investors for a homeland security-oriented private equity fund that Paladin would manage.

11. In or about June 2003, a partner of Paladin met with Morris seeking an investment from the CRF. The Paladin partner understood that Morris was a political operative who had connections and influence at the OSC.

12. The Paladin partner's calendar reflects a meeting with Morris on June 10, 2003. On that date, the Paladin partner met with Morris at the offices of Morris's political consulting firm, Morris & Carrick, Inc., in New York County. At the meeting, the Paladin partner sought to

retain Hank Morris as a placement agent before the CRF. However, Morris denied that he was a placement agent and instead referred the Paladin partner to the defendant. Morris said that the defendant was the former Chair of the Liberal Party and a good friend of Alan Hevesi, and had delivered the Liberal Party's endorsement in a number of Hevesi's campaigns.

13. Subsequently, the Paladin partner called the defendant and said that he had been referred by Morris. The Paladin partner's calendar reflects a meeting with the defendant at his law firm address in New York County on June 27, 2003. The defendant repeated many of Morris's statements, including that Hevesi was a friend of the defendant, and that the defendant had endorsed and supported Hevesi in various elections while the defendant was the head of the Liberal Party. However, the defendant provided no indication that he had any prior experience as a placement agent or had any prior experience marketing securities.

14. The Paladin partner and the defendant signed a placement agreement in which Paladin agreed to pay the defendant 1.5% of the capital commitment obtained from the OSC. The agreement provided for payment to the defendant in eight equal installments. However, the Paladin partner agreed to frontload the early payments at the defendant's request.

Capital Commitment and Payment Information

15. In or about May of 2004, CRF made a \$20 million commitment to Paladin. I have examined business records maintained by Paladin confirming that CRF's commitment was formalized on or about May 7, 2004.

16. Upon receiving the commitment from CRF, Paladin initiated payment to the defendant pursuant to the Placement Agreement, or the equivalent of 1.5% of CRF's commitment amount. I have reviewed business records maintained by Paladin reflecting that

Paladin issued five checks payable to the defendant individually, totaling \$300,000. Paladin accelerated payments to the defendant at defendant's request, including one payment for \$112,500 made on or about December 23, 2004 for fees due to the defendant in April 2005 through December 2005. The last check provided by Paladin to the defendant was dated December 21, 2005 in the amount of \$75,000. I have reviewed bank records reflecting that the defendant deposited these checks into a personal bank account over which he had signatory authority.

17. As Loglisci had forecast to Official A, the only disclosure of the defendant's involvement was a letter from Paladin addressed to Loglisci himself. I am informed by a former official of the CRF that shortly after Loglisci left the employment of the OSC, the former official and others were unable to find this letter or any of the other disclosure letters formerly submitted to Loglisci on other transactions involving CRF. The Paladin partner informed me that he did not notify any other OSC employee about the defendant's fee arrangement on this transaction.

18. As the defendant knew, he was not a bona fide placement agent on the Paladin investment. A placement agent presents prospective investments to individual and institutional investors such as the CRF and others. Here, individuals associated with the OSC and the CRF brought the investment proposal to the defendant at the defendant's request, for the purpose of enriching the defendant, thereby breaching their fiduciary duties to the CRF, the OSC and the public. Thus, the defendant was a sham placement agent on the Paladin deal.

**PEQUOT DIVERSIFIED OFFSHORE FUND AND
PEQUOT PRIVATE EQUITY FUND IV**

19. As set forth below, in addition to the Paladin transaction, evidence demonstrates that Morris and Loglisci also inserted the defendant as a sham placement agent on two additional CRF transactions with a fund manager known as Pequot, as a further reward for political favors, including helping to open a State Assembly seat for Hevesi's son to take.

Assembly Seat

20. I have interviewed a person who served as the New York State Assemblyman for the 28th District in Queens (the "Assemblyman") from in or about 1999 until in or about March 2005, who related the following information to me. The Assemblyman knew Alan Hevesi from years of involvement in Queens political circles, and the Assemblyman held the very seat that Hevesi had vacated when he was elected New York City Comptroller in November of 1993. Beginning in or about 2003, Hevesi asked the Assemblyman to notify Hevesi if the Assemblyman should decide to vacate his seat.

21. Official A related to me the following information. In or about late 2004, Official B told Official A, in substance, that he wanted Andrew Hevesi to be in the Assembly. Official B asked Official A to assist in generating a vacancy in the Assembly for that purpose, and Official A agreed to do so.

22. In furtherance of this mission, on or about November 30, 2004, Official A met with the Assemblyman in Queens. Official A asked if the Assemblyman was interested in stepping down, and stated that Andrew Hevesi would then run for the open seat. The Assemblyman replied that he was interested in obtaining a private sector job due to a family illness. The Assemblyman indicated that if he could find private sector employment that paid at

least a six-figure salary and allowed him to keep his City pension, the Assemblyman would give up his Assembly seat.

23. Subsequently, Official A briefed Official B on this conversation with the Assemblyman. Official B instructed Official A to proceed with finding employment for the Assemblyman. After making various efforts, Official A solicited help from a high-level aide to the New York Governor at the time (the “Governor’s Aide A”), who agreed to help. Shortly thereafter, the Governor’s Aide A told Official A that the defendant had pledged to introduce the Assemblyman to a high-level executive at an insurance company (the “Executive”). Upon hearing this, Official A contacted the defendant to thank him for his assistance.

24. I have interviewed the Executive who relayed the following information to me. The Executive recalls that either his firm’s lobbyist or the defendant himself referred the Assemblyman to him, explaining that the Assemblyman was looking for private sector employment due to a family illness. The Executive interviewed the Assemblyman for a job in the marketing department of the insurance company, and ultimately hired the Assemblyman at an annual salary of \$150,000, which the Assemblyman accepted. Thereafter, the Executive received a call from Official B, who thanked the Executive for hiring the Assemblyman. According to Official A, Official B also called and thanked the defendant.

25. According to the Assemblyman and Official A, the Assemblyman relinquished his seat in the Assembly in or about March of 2005. Upon hearing that the Assemblyman planned to step down, Official A met with officials of the Queens Democratic Party to facilitate arrangements for Andrew Hevesi to fill the Assemblyman’s vacated seat. The Queens Democratic Party agreed to grant the Queens County designation, which was the local party’s endorsement, to Andrew Hevesi. Once the county designation had been secured for Andrew

Hevesi, Official A, at Official B's direction, met with a second governor's aide (the "Governor's Aide B") and requested that the Governor certify a special election for the vacant Assembly seat as quickly as possible, which would discourage competition for the seat. Andrew Hevesi was elected to the Assemblyman's open Assembly seat in or about May 2005.

Pequot Diversified Offshore Fund and Pequot Private Equity Fund IV investments

26. I am informed by a Pequot partner that a few months later, in or about August 2005, Pequot retained Shelbourne as a placement agent to market certain funds to CRF for investment. Pequot's point of contact at Shelbourne was a former State official (the "Broker") who had become affiliated with Shelbourne. The Pequot partner understood that Shelbourne would be working alone in marketing Pequot funds to CRF. Pequot agreed to pay Shelbourne a placement fee equal to approximately .33% of CRF assets under management in Pequot's Diversified Offshore Fund. Pequot also agreed to pay Shelbourne a placement fee equal to approximately .50% per annum, for two years, of CRF capital committed to Pequot's Private Equity Fund IV.

27. The Pequot Partner informs me that, in or around October 2005, CRF committed \$50 million to the Pequot Diversified Offshore Fund, and subsequently, in or around June of 2006, CRF committed an additional \$50 million to that fund, for a total of \$100 million. Additionally, CRF committed \$10 million to Pequot's Private Equity Fund IV indirectly through a private equity fund of funds in or around June of 2006. Pequot paid Shelbourne a total of approximately \$1.8 million in placement fees on these CRF commitments.

28. I am informed by Investigator John Serrapica, forensic accountant in the Office of the Attorney General, that he has reviewed financial and other records relating to the above-described Pequot transactions. Based on that review, Investigator Serrapica believes that the

defendant was paid in connection with the Pequot transactions and in an amount equal to approximately one third of the fees paid by Pequot to the Broker. I am further informed by Investigator Serrapica that he believes that defendant's role on this transaction was concealed, because he was paid individually by the Broker, rather than through a broker-dealer as regulations require; he was paid by a series of personal checks made payable to defendant and drawn against the Broker's personal checking account; there was no contract documenting the defendant's involvement; and defendant was not otherwise disclosed in any documents submitted to Pequot, Shelbourne, or CRF. In all, the records indicate that defendant was paid \$505,000 from Broker on the Pequot transactions.

29. I am informed by the Compliance Officer that he was responsible for ensuring that Shelbourne complied with all applicable securities regulations in the effectuation of its business. To his knowledge, neither Shelbourne nor the Broker shared any of the placement fees paid by Pequot to Shelbourne in connection with CRF's investments in the Pequot funds. The Compliance Officer understood that, according to applicable securities regulations, the only way that Shelbourne could have legitimately shared these fees with the defendant would have been if the defendant had been affiliated with a broker-dealer, and Shelbourne paid that broker-dealer directly. Had the Compliance Officer understood that the Broker was sharing fees with the defendant, the Compliance Officer would have reported these transactions to Pequot, and to the relevant regulatory authorities.

30. Despite the fact that Harding was affiliated with a broker-dealer, Potomac Capital Group, financial records reflect that defendant did not receive the payments through Potomac or through any other broker-dealer as required by relevant FINRA and other rules. Instead, with respect to both the Paladin and Pequot transactions described above, bank records reflect that

defendant accepted checks addressed to him personally, and negotiated those checks through his personal checking account.

31. Based on the above, the defendant, along with his agents, accomplices, and coconspirators, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and made material false representations and statements with intent to deceive and defraud, while engaged in inducing and promoting the exchange, sale, negotiation and purchase within and from New York of securities, to wit: CRF investments in funds managed by Paladin and Pequot, described herein, and thereby wrongfully obtained property with a value in excess of two hundred and fifty dollars, to wit: (a) an introduction agreement related to the CRF investment in Paladin Homeland Security Fund (NY), (b) \$300,000 in fees related to that investment, and (c) \$505,000 in fees related to the CRF investments in Pequot Diversified Offshore Fund and Pequot Private Equity Fund IV.

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
April 15, 2009

INVESTIGATOR GERARD J. MATHESON