



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 24, 2012

Ms. Talibah P. Young  
Assistant General Counsel  
University of Houston System  
311 East Cullen Building  
Houston, Texas 77204-2028

OR2012-13503

Dear Ms. Young:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 463260.

The University of Houston (the "university") received a request for four categories of information pertaining to all "hedge funds and fund of hedge funds in which [the university] is an investor." You inform us that the university has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you inform us that release of this information may implicate the proprietary interests of Anchorage Capital Group, L.L.C. ("Anchorage"); Asian Century Quest Offshore Fund, Ltd.; Coatue Management, L.L.C.; Covalent Capital Partners GP, L.L.C.; Davidson Kempner Capital Management, L.L.C.; HBK Capital; Highline Capital; Mason Capital Management, L.L.C.; Maverick Capital; Och Ziff Capital Management; Partner Fund Management, L.P. ("PFM"); Samlyn Capital, L.L.C.; Scout Capital Management, L.L.C.; Taconic Capital Advisors, L.P.; Three Bridges Europe Fund, Ltd.; Whippoorwill Associates, Inc.; and York Institutional Partners. Accordingly, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have received comments from Anchorage and PFM. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the "Cashflow" field contained in the submitted information was not requested by the requestor. Accordingly, this information is not responsive to the request for information. This ruling does not address the public availability of non-responsive

information, nor is the university required to release non-responsive information in response to this request.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, only Anchorage and PFM have submitted comments to this office explaining why their information should not be released. Therefore, we have no basis to conclude the remaining third parties have a protected proprietary interest in the responsive information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the university may not withhold any portion of the responsive information based upon the proprietary interests of the remaining third parties.

We next note section 552.0225(b) of the Government Code provides as follows:

The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under [the Act]:

...

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);

...

(5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;

...

(7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;

(8) the remaining value of any fund or investment entity the governmental body is or has invested in[.]

Gov't Code § 552.0225(b)(3), (5), (7)-(8). In this instance, the responsive information consists of the month-to-month market value of the university's holdings in investment funds

managed by Anchorage and PFM, the month-to-month amount the university has invested in these funds, and the month-to-month net returns the university has received from the funds. Accordingly, we find this information is expressly enumerated in section 552.0225(b). *See id.* Anchorage raises section 552.143 of the Government Code for its responsive information. In addition, Anchorage and PFM raise section 552.110 of the Government Code for their responsive information. We note, however, the exceptions to disclosure found in the Act, including sections 552.110 and 552.143, do not apply to information that is made public by section 552.0225. *See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989).* Thus, the university must release the responsive information pursuant to section 552.0225(b) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 463260

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Janet Joyce  
York Institutional Partners  
767 5<sup>th</sup> Avenue, 17<sup>th</sup> Floor  
New York, New York 10153  
(w/o enclosures)

Mr. Richard Chase  
Davidson Kempner Capital Management  
65 East 55<sup>th</sup> Street, 19<sup>th</sup> Floor  
New York, New York 10022  
(w/o enclosures)

Mr. David Scully  
Coatue Management  
9 West 57<sup>th</sup> Street, 25<sup>th</sup> Floor  
New York, New York 10019  
(w/o enclosures)

Mr. William Stone  
Covalent Capital Partners GP  
Reservoir Woods  
930 Winter Street, Suite 2800  
Waltham, Massachusetts 02451  
(w/o enclosures)

Mr. McKinley Wier  
HBK Capital  
Suite 700  
2101 Cedar Springs Road  
Dallas, Texas 75201  
(w/o enclosures)

Mr. John C. Grizzetti  
Mason Capital Management  
110 East 59<sup>th</sup> Street, 30<sup>th</sup> Floor  
New York, New York 10022  
(w/o enclosures)

Mr. Nathan Urquhart  
Och Ziff Capital Management  
9 West 57<sup>th</sup> Street, 39<sup>th</sup> Floor  
New York, New York 10019  
(w/o enclosures)

Ms. Corrie Mattorano  
Maverick Capital  
300 Crescent Court, 18<sup>th</sup> Floor  
Dallas, Texas 75201  
(w/o enclosures)

Mr. Matthew Seppel  
Three Bridges Europe Fund  
152 West 57<sup>th</sup> Street, 28<sup>th</sup> Floor  
New York, New York 10019  
(w/o enclosures)

Ms. Yadey Yawand-Wossen  
Asian Century Quest Offshore Fund  
152 West 57<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, New York 10019  
(w/o enclosures)

Ms. Anne Marie Kim  
General Counsel  
Anchorage Capital Group, LLC  
610 Broadway, 6<sup>th</sup> Floor  
New York, New York 10012  
(w/o enclosures)

Mr. Michael Weiss  
Chief Compliance Officer  
Scout Capital Management  
640 Fifth Avenue, 22<sup>nd</sup> Floor  
New York, New York 10019  
(w/o enclosures)

Ms. Kristin Meringer  
Highline Capital  
One Rockefeller Center, 30<sup>th</sup> Floor  
New York, New York 10020  
(w/o enclosures)

Mr. Steven M. Wagshal  
Samlyn Capital  
500 Park Avenue, 2<sup>nd</sup> Floor  
New York, New York 10022  
(w/o enclosures)

Ms. Dominique Oliva  
Taconic Capital Advisors  
450 Park Avenue, 9<sup>th</sup> Floor  
New York, New York 10022  
(w/o enclosures)

Mr. Daniel Gewanter  
Whippoorwill Associates, Inc  
11 Martine Avenue  
White Plains, New York 10606  
(w/o enclosures)

Ms. Kimberly Summe  
Partner Fund Management  
Suite 3500  
4 Embarcadero Center  
San Francisco, California 94111  
(w/o enclosures)