ATTORNEY GENERAL OF THE STATE OF NEW YORK

IN THE MATTER OF THE CARLYLE GROUP	:	Investigation No. 2009-071

ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW § 63(15)

In March 2007, the Office of the Attorney General of the State of New York (the "Attorney General"), commenced an industry-wide investigation (the "Investigation"), pursuant to Article 23-A of the General Business Law (the "Martin Act"), into allegations of "pay-to-play" practices and undisclosed conflicts of interest at public pension funds, including the New York State Common Retirement Fund. This Assurance of Discontinuance ("Assurance") contains the findings of the Attorney General's Investigation and the relief agreed to by the Attorney General and The Carlyle Group ("Carlyle").

WHEREAS, the Attorney General finds that trillions of dollars in public pension funds in the United States are held in trust for millions of retirees and their families and these funds must be protected from manipulation for personal or political gain;

WHEREAS, the Attorney General finds that public pension fund assets must be invested solely in the best interests of the beneficiaries of the public pension fund;

WHEREAS, the Attorney General finds that the New York State Common Retirement Fund in particular is the largest asset of the State and, having been valued at $150 billion at the time of the events described in this Assurance, was larger than the entire State budget this year;

WHEREAS, the Attorney General finds that public pension funds are a highly desirable source of investment for private equity firms and hedge funds;

WHEREAS, the Attorney General finds that private equity firms and hedge funds frequently use placement agents, finders, lobbyists, and other intermediaries (herein, "placement agents") to obtain investments from public pension funds;

WHEREAS, the Attorney General finds that these placement agents are frequently politically-connected individuals selling access to public money;

WHEREAS, the Attorney General finds that the use of placement agents to obtain public pension fund investments is a practice fraught with peril and prone to manipulation and abuse;

WHEREAS, the Attorney General finds that the legislature has designated the New York State Comptroller, a statewide elected official, as the sole trustee of the Common Retirement Fund, vesting the Comptroller with tremendous powers over the Common Retirement Fund, including the ability to approve investments and contracts worth hundreds of millions of dollars;

WHEREAS, the Attorney General finds that persons and entities doing business before the State Comptroller's Office are frequently solicited for and in fact make political contributions to the Comptroller's campaign before, during, and after they seek and obtain business from the State Comptroller's Office;

WHEREAS, the Attorney General finds that this practice of making campaign contributions while seeking and doing business before the Comptroller's Office creates at least the appearance of corrupt "pay to play" practices and thereby undermines public confidence in State government in general and in the Comptroller's Office in particular;

WHEREAS, the Attorney General finds that the system must be reformed to eliminate the use of intermediaries selling access to public pension funds, and to eliminate the practice of making campaign contributions to publicly-elected trustees of public pension funds while seeking and doing business before those public pension funds;

WHEREAS, the Attorney General is the legal adviser of the Common Retirement Fund under New York's Retirement and Social Security Law §14;

WHEREAS, Carlyle acknowledges the problems with "pay-to-play" practices and conflicts of interest inherent in the use of placement agents and other intermediaries to obtain public pension fund investments; and

WHEREAS Carlyle disapproves of such practices, recognizes the need for reform, and embraces the Attorney General's Reform Code of Conduct attached to this Assurance and incorporated by reference herein; and

WHEREAS Carlyle has fully cooperated with the Attorney General's investigation and was the first firm to join the Attorney General in announcing a ban on all placement agents in connection with public pension fund investments in the United States.

I. CARLYLE

1. Carlyle is one of the world's largest private equity firms, with over $85.5 billion under management. Carlyle manages 66 funds and operates out of offices in 20 countries in North America, Europe, Asia, Australia, the Middle East/North Africa and Latin America. Carlyle is licensed to do business in the State of New York. Its principal executive offices are located in Washington, D.C.

II. THE NEW YORK OFFICE OF THE STATE COMPTROLLER

2. The New York Office of the State Comptroller (the "OSC") administers the New York State Common Retirement Fund (the "CRF"). The CRF is the retirement system for New York State and many local government employees. Most recently valued at $122 billion, the CRF is by far the single largest monetary fund in State government and the third-largest public employee pension fund in the country. The New York State Comptroller is designated by the legislature as the sole trustee responsible for faithfully managing and investing the CRF for the exclusive benefit of over one million current and former State employees and retirees.

3. The Comptroller is a statewide elected official and is the State's chief fiscal officer. The Comptroller is the sole trustee of the CRF, but typically appoints a Chief Investment Officer and other investment staff members who are vested with authority to make investment decisions. The Comptroller, the Chief Investment Officer and CRF investment staff members owe fiduciary duties and other duties to the CRF and its members and beneficiaries.

4. The primary functions of the OSC are to perform audits of state government operations and to manage the CRF. The CRF invests in specific types of assets as set forth by statute. The statute's basket provision allows a percentage of the CRF portfolio's investments to be held in assets not otherwise specifically delineated in the statute. From 2003 through 2006, the CRF made investments that fell into this "basket" through its Division of Alternative Investments. This division was primarily comprised of staff members or investment officers who reported through the Director

of Alternative Investments to the Chief Investment Officer, who reported to the Comptroller with respect to investment decisions.

5. During the administration of Alan Hevesi, who was Comptroller from January 2003 through December 2006 ("Hevesi"), the CRF invested the majority of its alternative investments portfolio in private equity funds. Beginning in approximately 2005, the CRF also began to invest in hedge funds. The CRF generally invested in private equity funds as one of various limited partners. In these investments, a separate investment manager generally served as the general partner which managed the day-to-day investment. The alternative investment portfolio also included investments in fund-of-funds, which are investments in a portfolio of private equity or hedge funds. The CRF invested as a limited partner in fund-of-funds. In other words, the CRF would place a lump sum with a fund and that fund would essentially manage the investment of these monies by investing in a portfolio of other sub-funds.

6. The CRF was a large and desirable source of investments funds. Gaining access to and investments from the CRF was a competitive process, and frequently the investment manager who served as the general partner of the funds retained third parties known as "placement agents" or "finders" (hereinafter "placement agents") to introduce and market them to CRF. If an investment manager paid a fee to the placement agent in connection with an investment made by the CRF, the CRF required that the investment manager make a written disclosure of the fee and the identity of the placement agent to the Chief Investment Officer or to the manager of the fund-of-funds.

7. Once the CRF was introduced to and interested in the fund, the fund was referred to one of CRF's outside consultants for due diligence. At the same time, a CRF investment officer was assigned to review and analyze the transaction. If the outside consultant found the transaction suitable, the investment officer then determined whether to recommend the investment to the Director of Alternative Investments.

8. If the investment officer recommended a proposed private equity investment, and the Director of Alternative Investments concurred, then the recommendation was forwarded to the Chief Investment Officer for approval. If the Chief Investment Officer approved, he recommended the investment to the Comptroller, whose approval was required before the CRF would make a direct investment. There was a similar process for hedge fund investments, which required the recommendation of the senior investment officer to the Chief Investment Officer and the Chief Investment Officer's approval and recommendation to the Comptroller. Given this process, the Chief Investment Officer could not make an investment unless the proposed investment had been vetted by an outside consultant and recommended by multiple levels of investment staff, including the Director of Alternative Investments, the Chief Investment Officer and the Comptroller.

9. Placement agents and other third parties who are engaged in the business of effecting securities transactions and who receive a commission or compensation in connection with that transaction are required to be licensed and affiliated with broker-dealers regulated by an entity now known as the Financial Industry Regulatory Authority ("FINRA"). To obtain such licenses, the agents are required to pass the "Series 7" or equivalent examination administered by FINRA.

III. THE MORRIS/LOGLISCI INDICTMENT

10. As a result of the Investigation, a grand jury returned a 123-count indictment (the "Indictment") of Henry "Hank" Morris, the chief political officer to Hevesi, and David Loglisci, the CRF's Director of Alternative Investments and then Chief Investment Officer. The Indictment charges Morris and Loglisci with enterprise corruption and multiple violations of the Martin Act, money laundering, grand larceny, falsifying business records, offering a false instrument for filing, receiving a reward for official misconduct, bribery, rewarding official misconduct and related offenses. The Indictment alleges the following facts in relevant part as set forth in this Part III of the Assurance.

11. Morris, the chief political advisor to Hevesi, and Loglisci, joined forces in a plot to sell access to billions of taxpayer and pension dollars in exchange for millions of dollars in political and personal gain. Morris steered to himself and certain associates an array of investment deals from which he drew tens of millions of dollars in so-called placement fees. He also used his unlawful power over the pension fund to extract vast amounts of political contributions for the Comptroller's re-election campaign from those doing business and seeking to do business with the CRF.

12. In November 2002, Hevesi was elected to serve as Comptroller, and took office on January 1, 2003. Prior to and after the 2002 election, Morris served as Hevesi's paid chief political consultant and advisor. Upon Hevesi taking office in 2003, Morris began to exercise control over certain aspects of the CRF, including the alternative investment portfolio.

13. Morris asserted control over CRF business by recommending, approving, securing or blocking alternative investment transactions. Morris also influenced the CRF to invest for the first time in hedge funds, an asset class that was perceived to be riskier than private equity funds, so that Morris and his associates could reap fees from hedge fund transactions involving the CRF.

14. Morris participated in discussions to remove and promote certain executive staff at the CRF. In or about April 2004, for example, Morris and certain other high-ranking OSC officials determined that the original Chief Investment Officer of the CRF was not sufficiently accommodating to Morris and his associates. Morris participated in the decision to remove the original Chief Investment Officer and promote Loglisci to that position.

15. Beginning in 2003, Morris also began to market himself as a placement agent to private equity and hedge funds seeking to do business with the CRF. At the same time that Morris was profiting through investment transactions involving the CRF, Morris participated with Loglisci in making decisions about investments. In particular, during the Hevesi administration, Morris occupied three conflicting roles at the CRF although he had no official position there: (1) he advised and helped manage the CRF's alternative investments, acting as a de facto Chief Investment Officer; (2) he brokered deals between the CRF and politically-connected outside investment funds offering investment management services, earning millions in undisclosed fees as a placement agent; and (3) he had a commercial, personal and political relationship as the Comptroller's chief political strategist and fundraiser.

16. Through his role at the CRF, Morris became a de facto and functional fiduciary to the CRF and its members and beneficiaries, and owed a fiduciary duty to act in the best interests of the CRF and its members and beneficiaries. However, Morris breached this duty and used his influence over the CRF investment process to enrich himself and other associates. Morris's multiple roles generated conflicts of interest, which Loglisci had knowledge of and failed to disclose.

17. Loglisci ceded decision-making authority to Morris regarding particular investments and investment strategies to be pursued and approved by the CRF. During this time, Loglisci was also aware that Morris had an ongoing relationship with the Comptroller. Loglisci was a fiduciary to the CRF and a public officer with duties pursuant to the Public Officers Law and therefore had a duty to disclose his own and others' actual and potential conflicts of interests. Loglisci failed to disclose Morris's role to members and beneficiaries of the CRF through the CRF's annual report or otherwise. Loglisci and Morris concealed their corrupt arrangement and Morris's role in investment transactions from the investment staff, ethics officers, and lawyers at CRF. Additionally, Loglisci failed to disclose his own conflicts of interest involving the financing and distribution of his brother's film, "Chooch," by Morris and other persons receiving an investment commitment from the CRF.

18. In sum, from 2003 through 2006, through Morris's and Loglisci's actions as described above, the process of selecting investments at the CRF – investments of billions of dollars – was skewed and corrupted to favor political associates, family and friends of Morris and Loglisci, and other officials in the Office of the State Comptroller. Morris and Loglisci corrupted the alternative investment selection

process by making investment decisions based on the goal of rewarding Morris and his associates, rather than based exclusively on the best interests of the CRF and its members and beneficiaries. Morris and Loglisci favored deals for which Morris and his associates acted as placement agents, or had other financial interests, which interests were often concealed from investment staff and others. The scheme was manifested in several ways:

a. In some instances, Morris and Loglisci blocked proposed CRF investments where the private equity fund or hedge fund would not pay them or their associates.

b. In yet others, Morris inserted his associates as placement agents, who then shared fees with Morris and on others, Morris, Loglisci and their associates inserted placement agents into proposed transactions as a reward for past political favors.

c. On one transaction, Morris was a principal of an investment in which Morris served as placement agent.

d. On some transactions, Morris was the placement agent through a broker/dealer, Searle & Company ("Searle") or another entity controlled by Morris and Morris shared fees with an associate. On certain other transactions, the structure was reversed, so that an associate of Morris was the placement agent, who shared fees with Morris. These fee sharing arrangements were often not disclosed to fund managers or to the CRF investment staff, other than Loglisci.

19. Morris concealed his conflicting roles as political consultant, CRF gatekeeper and CRF placement agent from the CRF alternative investment staff and others. Morris also concealed financial relationships he had with Loglisci and another OSC official. At times, Morris concealed his role as CRF investment gatekeeper from funds that hired him as a placement agent. In some instances, Morris obtained placement agreements and fees for himself and others from certain fund managers through false

and misleading representations and material omissions, including claims that Searle was the official placement agent for the CRF.

20. Loglisci helped to conceal his and Morris's scheme by maintaining exclusive custody of letters to the CRF that disclosed the use of placement agents and fees paid relating to certain CRF investment transactions.

21. As a result of Morris and Loglisci's scheme, Morris and his associates earned fees on more than five billion dollars in commitments to more than twenty private equity funds, hedge funds, and fund-of-funds during the Hevesi administration. These deals generated tens of millions of dollars in fees to Morris and his associates.

IV. FINDINGS AS TO CARLYLE

22. The Investigation revealed that Carlyle was one of the private equity funds which retained Morris as a placement agent. Using Morris as a placement agent, Carlyle obtained approximately $730,000,000 in investment commitments from CRF.

23. Until 2002, Carlyle was unable to obtain an investment from the CRF in any of its funds. Carlyle typically used investor relations personnel to solicit investments, but given Carlyle's difficulty in obtaining investments from CRF, in or about 2000, it engaged another placement agent in an attempt to obtain an investment from CRF. In 2002, with the assistance of that placement agent, CRF finally made an investment in a Carlyle fund, Carlyle Management Partners, through a fund-of-fund, The Hudson River Fund II, L.P. That placement agent was also able to assist Carlyle in obtaining investments from the New York City Comptroller's office ("NYC") during Alan Hevesi's administration. That placement agent received over $2,000,000 in placement agent fees for each of these transactions.

24. In January 2003, when Hevesi took office at CRF, Carlyle obtained meetings with investment staff through the placement agent described in the prior paragraph. In one of the meetings, Carlyle held a tutorial on private equity for the alternative investment group in the new administration. Subsequent to this meeting, Carlyle had additional meetings with CRF and CRF expressed an interest in Carlyle Europe Partners II Fund ("CEPII"). In April 2003, Carlyle learned that CRF had approved a direct investment in CEPII. This investment closed in September 2003 and the placement agent described in the prior paragraph received approximately $1,700,000 in fees for placement agent services. However, around the time of the closing of CEPII, Carlyle ceased working with this placement agent.

25. In the summer of 2003, Carlyle was also marketing a fund called the Carlyle/Riverstone Global Energy & Power Fund II, L.P. ("Energy II"). Energy II was the product of a partnership between Carlyle and Riverstone Holdings, LLC ("Riverstone"), a separate and independent private equity firm which developed private equity funds focusing on investments in the energy sector. Fundraising for Energy II had begun in mid-2002. However, Carlyle, through its own investor relations personnel and the placement agent described in the prior two paragraphs, had previously been unsuccessful in obtaining an investment or any interest in Energy II from CRF.

26. In or about early July 2003, a partner in Riverstone (the "Riverstone Partner") discussed Energy II with Barrett Wissman ("Wissman"),[1] a hedge fund manager and

[1] During 2009, Wissman pled guilty to securities fraud under the Martin Act in connection with this Investigation.

neighbor in Montana. Wissman told the Riverstone Partner that he would have someone contact Riverstone to help with CRF.

27. After the discussion between the Riverstone Partner and Wissman, Morris reached out to Riverstone and a meeting between Riverstone and Morris took place in July 2003. The Riverstone Partner came to an understanding with Morris that Morris would provide placement agent services for Energy II.

28. Carlyle retained Morris as a placement agent for Energy II through an agreement entered into between Carlyle and Searle signed in August of 2003.

29. Soon after meeting with the Riverstone Partner, Morris arranged a meeting with Loglisci and the CRF. Although Morris arranged meetings with the CRF on behalf of Carlyle, he did not attend them and Carlyle staff did the bulk of the work with CRF relating to Energy II. CRF invested in Energy II in November of 2003.

30. After CRF invested in Energy II, David Loglisci mentioned to the Riverstone Partner that Loglisci's brother needed help with his movie, "Chooch." A meeting between the Riverstone Partner and Steve Loglisci regarding "Chooch" took place in or about March of 2004. Subsequent to this meeting, the Riverstone Partner invested $100,000 in "Chooch." Carlyle was unaware that the Riverstone Partner made an "investment" in a film produced by David Loglisci's brother.

31. In early 2004, a Carlyle partner and one of Carlyle's investor relations personnel met with Morris to discuss fundraising at the CRF for other Carlyle funds coming to market. Carlyle and Morris agreed that Morris would approach CRF with any funds Carlyle had been currently marketing. Morris would be retained as a placement agent for any Carlyle fund which Morris presented to CRF and in which CRF invested.

32. During the period beginning November 2003 through December 2005, Carlyle received nearly $730,000,000 in investment commitments from CRF in five Carlyle funds that were introduced to the CRF through Morris. These investment commitments included the following:

a. $150,000,000 commitment to Energy II on November 24, 2003;

b. $100,000,000 commitment to Carlyle Realty Partners IV-A, LP on April 15, 2005;

c. 80,000,000 Euro commitment to Carlyle Europe Real Estate Partners II, LP on September 19, 2005;

d. $350,000,000 commitment to Carlyle/Riverstone Global Energy & Power Fund III, L.P. on October 28, 2005; and

e. $30,000,000 commitment to Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P. through CRF's fund-of-fund, The Hudson River Fund II, L.P. on December 14, 2005.

33. Searle received placement agent fees totaling over $13,000,000 in connection with the five investments described in Paragraph 32 above. This total was comprised of:

a. $3,000,000 in fees paid in connection with the CRF investment in Energy II;

b. $1,250,000 in fees paid in connection with the CRF investment in Carlyle Realty Partners IV-A;

c. $1,158,382 in fees paid in connection with the CRF investment in Carlyle Europe Real Estate Partners II, LP;

d. $7,000,000 in fees paid in connection with the CRF investment in Carlyle/Riverstone Global Energy & Power Fund III, L.P.; and

e. $600,000 in fees paid in connection with the CRF investment through The Hudson River Fund II, L.P. in Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P.

34. After Searle received these fees, Searle paid PB Placement, LLC, an entity controlled by Morris, a percentage of the fees received from Carlyle in connection with the five investments introduced to CRF by Morris. PB Placement, LLC received a total of $7,320,660 in fees from Searle, which was comprised of:

a. $1,425,000 of the fees received by Searle in connection with the CRF investment in Energy II;

b. $1,187,500 of the fees received in connection with the CRF investment in Carlyle Realty Partners IV-A;

c. $1,098,160 of the fees received by Searle in connection with the CRF investment in Carlyle Europe Real Estate Partners II, LP;

d. $3,325,000 of the fees received by Searle in connection with the CRF investment in Carlyle/Riverstone Global Energy & Power Fund III, L.P.; and

e. $285,000 of the fees received by Searle in connection with the CRF investment through The Hudson River Fund II, L.P. in Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P.

35. Searle paid HFV Investments, LLC, an entity controlled by Wissman, fifty percent of the placement agent fees received in connection with three of the five investments introduced to CRF by Morris. Wissman received a total of $5,300,000 in fees from Searle, which was comprised of:

a. $1,500,000 of the fees received by Searle in connection with the CRF investment in Energy II;

b. $3,500,000 of the fees received by Searle in connection with the CRF investment in Carlyle/Riverstone Global Energy & Power Fund III, L.P.; and

c. $300,000 of the fees received by Searle in connection with the CRF investment through The Hudson River Fund II, L.P. in Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P.

36. Pursuant to side letters entered into between Carlyle and CRF relating to each of the CRF's investments in Carlyle and Carlyle/Riverstone funds, Carlyle was required to disclose all fees, bonuses and other compensation paid by or on behalf of Carlyle to any placement agent, finder or other individual or entity in connection with the CRF's purchase of an interest in Carlyle funds. Carlyle submitted disclosure letters in connection with each of the five investments for which Morris acted as placement agent:

a. On December 1, 2003, Carlyle submitted a letter to the CRF disclosing an obligation to pay placement agent fees to Searle in the amount of $3,000,000 in connection with the CRF investment in Energy II;

b. On April 19, 2005, Carlyle submitted a letter to the CRF disclosing an obligation to pay placement agent fees to Searle in the amount of $1,250,000 in connection with the CRF investment in Carlyle Realty Partners IV-A;

c. On October 3, 2005, Carlyle submitted a letter to the CRF disclosing an obligation to pay placement agent fees to Searle in the amount of €950,000 (Euros) in connection with the CRF investment in Carlyle Europe Real Estate Partners II, LP;

d. On November 3, 2005, Carlyle submitted a letter to the CRF disclosing an obligation to pay placement agent fees to Searle in the amount of $7,000,000 in connection with the CRF investment in Carlyle/Riverstone Global Energy & Power Fund III, L.P.; and

e. On January 26, 2006, Carlyle submitted a letter to the Hudson River Fund disclosing an obligation to pay placement agent fees to Searle in the amount of $600,000 in connection with the CRF investment through The Hudson River Fund II, L.P. in Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P.

37. Notwithstanding that the Riverstone Partner was aware that Wissman received part of the placement agent fees paid to Searle, the receipt of placement agent fees by Wissman was not disclosed to CRF through the disclosure letters described in

Paragraph 36 above or otherwise. Carlyle was unaware that Searle paid a percentage of these placement agent fees to Wissman (through HFV Investments, LLC).

38. Carlyle employees made campaign contributions to Alan Hevesi before and after Carlyle received investments from the CRF:

a. On January 11, 2005, after Carlyle had received several investment commitments from CRF, but before it received investments in Carlyle Europe Real Estate Partners II, LP, Carlyle/Riverstone Global Energy & Power Fund III, L.P. and Carlyle/Riverstone Renewable Energy Infrastructure Fund I, L.P, a Carlyle partner contributed $15,000 to Hevesi for New York. Two other Carlyle employees each contributed $15,000 to Hevesi for New York on that same date.

b. In or about the fall of 2006, Morris solicited a Carlyle partner to make an additional contribution to Hevesi's campaign for re-election as Comptroller. On October 5, 2006, that Carlyle partner contributed $13,000 to Hevesi for New York. On the same date, two other Carlyle employees each contributed $10,000 to Hevesi for New York.

AGREEMENT

WHEREAS, Carlyle wishes to resolve the Investigation and is willing to abide by the terms of this Agreement set forth below;

WHEREAS, Carlyle does not admit or deny the Attorney General's findings as set forth in this Assurance;

WHEREAS, the Attorney General is willing to accept the terms of the Assurance pursuant to New York Executive Law § 63(15), and to discontinue, as described herein, the Investigation of Carlyle;

WHEREAS, the parties believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties, as follows:

I. CODE OF CONDUCT

39. The Attorney General and Carlyle hereby enter into the attached Public Pension Fund Reform Code of Conduct, which is hereby incorporated by reference as if fully set forth herein.

II. PAYMENT

40. Within 180 days of the signing of this Assurance, Carlyle shall make a payment of TWENTY MILLION ($20,000,000) DOLLARS to the State of New York. The payment shall be in the form of a certified or bank check made out to "State of New York" and mailed or otherwise delivered to: Office of the Attorney General of the State of New York, 120 Broadway, 25th Floor, New York, New York 10271, Attn: Linda Lacewell, Special Counsel.

41. Carlyle agrees that it shall not, collectively or individually, seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, payment made pursuant to any insurance policy, with regard to any or all of the amounts payable pursuant to paragraph 40 above.

III. GENERAL PROVISIONS

42. Carlyle admits the jurisdiction of the Attorney General. Carlyle is committed to complying with relevant laws to include the Martin Act, General Business Law § 349, and Executive Law § 63(12).

43. The Attorney General retains the right under Executive Law § 63(15) to compel compliance with this Assurance. Evidence of a violation of this Assurance proven in a court of competent jurisdiction shall constitute prima facie proof of a violation of the

Martin Act, General Business Law § 349, and/or Executive Law § 63(12) in any civil action or proceeding hereafter commenced by the Attorney General against Carlyle.

44. Should the Attorney General prove in a court of competent jurisdiction that a material breach of this Assurance by Carlyle has occurred, Carlyle shall pay to the Attorney General the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses and court costs.

45. If Carlyle defaults on any obligation under this Assurance, the Attorney General may terminate this Assurance, at his sole discretion, upon 10 days written notice to Carlyle. Carlyle agrees that any statute of limitations or other time-related defenses applicable to the subject of the Assurance and any claims arising from or relating thereto are tolled from and after the date of this Assurance. In the event of such termination, Carlyle expressly agrees and acknowledges that this Assurance shall in no way bar or otherwise preclude the Attorney General from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Assurance, against Carlyle, or from using in any way any statements, documents or other materials produced or provided by Carlyle prior to or after the date of this Assurance, including, without limitation, such statements, documents or other materials, if any, provided for purposes of settlement negotiations, except as otherwise provided in a written agreement with the Attorney General.

46. Except in an action by the Attorney General to enforce the obligations of Carlyle in this Assurance or in the event of termination of this Assurance by the Attorney General, neither this Assurance nor any acts performed or documents executed in furtherance of this Assurance: (a) may be deemed or used as an admission of, or

evidence of, the validity of any alleged wrongdoing, liability or lack of wrongdoing or liability; or (b) may be deemed or used as an admission of or evidence of any such alleged fault or omission of Carlyle in any civil, criminal or administrative proceeding in any court, administrative or other tribunal. This Assurance shall not confer any rights upon persons or entities who are not a party to this Assurance.

47. Carlyle has fully and promptly cooperated in the Investigation, shall continue to do so, and shall use its best efforts to ensure that all the current and former officers, directors, trustees, agents, members, partners and employees of Carlyle (and any of Carlyle's parent companies, subsidiaries or affiliates) cooperate fully and promptly with the Attorney General in any pending or subsequently initiated investigation, litigation or other proceeding relating to the subject matter of the Assurance. Such cooperation shall include, without limitation, and on a best efforts basis:

a. Production, voluntarily and without service of a subpoena, upon the request of the Attorney General, of all documents or other tangible evidence requested by the Attorney General, and any compilations or summaries of information or data that the Attorney General requests that Carlyle (or Carlyle's parent companies, subsidiaries or affiliates) prepare, except to the extent such production would require the disclosure of information protected by the attorney-client and/or work product privileges;

b. Without the necessity of a subpoena, having the current (and making all reasonable efforts to cause the former) officers, directors, trustees, agents, members, partners and employees of Carlyle (and of Carlyle's parent companies, subsidiaries or affiliates) attend any Proceedings (as hereinafter defined) in New York State or elsewhere at which the presence of any such persons is requested by the Attorney General and having such current (and making all reasonable efforts to cause the former) officers, directors, trustees, agents, members, partners and employees answer any and all inquiries that may be put by the Attorney General to any of the them at any proceedings or otherwise; "Proceedings" include, but are not limited to, any meetings, interviews, depositions, hearings, trials, grand jury proceedings or other proceedings;

c. Fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession, custody or control (or the possession, custody or control of Carlyle's parent companies, subsidiaries or affiliates) relevant to all inquiries made by the Attorney General concerning the subject matter of the Assurance, except to the extent such inquiries call for the disclosure of information protected by the attorney-client and/or work product privileges; and

d. Making outside counsel reasonably available to provide comprehensive presentations concerning any internal investigation relating to all matters in the Assurance and to answer questions, except to the extent such presentations call for the disclosure of information protected by the attorney-client and/or work product privileges.

48. In the event Carlyle fails to comply with paragraph 47 of the Assurance, the Attorney General shall be entitled to specific performance, in addition to other available remedies.

49. The Attorney General has agreed to the terms of this Assurance based on, among other things, the representations made to the Attorney General and his staff by Carlyle, its counsel, and the Attorney General's Investigation. To the extent that representations made by Carlyle or its counsel are later found to be materially incomplete or inaccurate, this Assurance is voidable by the Attorney General in his sole discretion.

50. Carlyle shall, upon request by the Attorney General, provide all documentation and information reasonably necessary for the Attorney General to verify compliance with this Assurance.

51. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

If to Carlyle:

Mary Beth Hogan, Esq.
Debevoise & Plimpton LLP

919 Third Avenue
New York, New York 10022

If to the Attorney General:

Office of the Attorney General of the State of New York
120 Broadway, 25th Floor
New York, New York 10271
Attn: Linda Lacewell

52. This Assurance and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

53. Carlyle consents to the jurisdiction of the Attorney General in any proceeding or action to enforce this Assurance.

54. Carlyle agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance or creating the impression that this Assurance is without factual basis. Nothing in this paragraph affects Carlyle's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorney General is not a party.

55. This Assurance may not be amended except by an instrument in writing signed on behalf of the parties to this Assurance.

56. This Assurance constitutes the entire agreement between the Attorney General and Carlyle and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Assurance. No representation, inducement, promise, understanding, condition or warranty not set forth in this Assurance has been relied upon by any party to this Assurance.

57. In the event that one or more provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

58. This Assurance may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto.

59. Upon execution by the parties to this Assurance, the Attorney General agrees to suspend, pursuant to Executive Law § 63(15), this Investigation as and against Carlyle, its employees, and its beneficial owners solely with respect to its marketing of investments to public pension funds in New York State.

60. Any payments and all correspondence related to this Assurance must reference AOD # 09-071.

WHEREFORE, the following signatures are affixed hereto on the dates set forth below.

ANDREW M. CUOMO
Attorney General of the State of New York

By: _____
Andrew M. Cuomo
120 Broadway
25th Floor
New York, New York 10271
(212) 416-6199
Dated: May 14, 2009

THE CARLYLE GROUP

By: _____
Jeffrey W. Ferguson, Esq.
Managing Director and General Counsel
Dated: May 14, 2009