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## OFFICE OF THE CITY COUNCIL

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March 11, 2016  
12:00 p.m.

### **FINAL REPORT**

**TO:** The Honorable Bill Gulliford, Chair  
Finance Committee

**FROM:** Anna Lopez Brosche, Chair  
Finance Subcommittee on Subpoenas Related to Police and Fire Pension Fund

**RE:** Final Report of the Subcommittee on Subpoenas Related to Police and Fire Pension Fund

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### **BACKGROUND:**

The Finance Committee issued subpoenas to the Police and Fire Pension Fund (PFPF) Board of Trustees Custodian of Records and Robert D. Klausner, Esq. as a result of unfulfilled requests for information stemming from the forensic investigation of the PFPF conducted by Benchmark Financial Services, Inc.

In response to such subpoenas, the PFPF Board of Trustees Custodian of Records appeared before and presented documents to the Finance Committee at its regular meeting on November 16, 2015. Separately, Henry M. Coxe, III, Esq., attorney for Robert D. Klausner, Esq., sent letters dated November 25, 2015 and December 30, 2015.

### **CHARGE:**

- 1) Does the material presented to the committee fully answer the questions asked?
- 2) Should Finance Committee require Robert D. Klausner, Esq. and/or PFPF Board of Trustees Custodian of Records to appear before Finance Committee to answer questions?
- 3) What further action would the subcommittee recommend that Finance take, if any?
- 4) Anything else that the subcommittee would deem important to heading in a pertinent direction?

**MEMBERS:** Anna Lopez Brosche, Chair  
Danny Becton  
John R. Crescimbeni

**CONCLUSIONS/ RECOMMENDATIONS:**

The Subcommittee conducted three noticed meetings and addressed its charge for each of the subpoenas.

*Subpoena Issued to Police and Fire Pension Fund Board of Trustees Custodian of Records*

With the full cooperation of the PFPF Interim Director, the Subcommittee approved limiting the scope of documents and information requested, and directed the Council Auditor to select and review commission recapture agreements and related transactions. The Council Auditor issued a memorandum to the Subcommittee dated February 26, 2016 outlining the request, procedures, and findings, a full copy of which is attached.

Based on the meetings, discussions, and procedures performed, the Subcommittee offers the following responses to Finance Chairman Gulliford's charge:

- 1) The material presented to the Finance Committee does not fully answer the questions asked; however, the Subcommittee directed the performance of alternative procedures and the materials presented fully responded to such alternative procedures.
- 2) The Finance Committee should not require the PFPF Board of Trustees Custodian of Records to appear before Finance Committee to answer questions.
- 3) The Subcommittee recommends no further action regarding the subpoena issued to the PFPF Board of Trustees Custodian of Records at this time.
- 4) The Subcommittee has no information or recommendations at this time.

*Subpoena Issued to Robert D. Klausner, Esq., General Counsel for the Police and Fire Pension Fund*

The communications from Mr. Coxe did fully address the subpoena, while they did not fully respond to the subpoena. The letters and materials provided did generate additional questions and requests for information from the PFPF Board of Trustees, and the PFPF Interim Director willingly and fully responded. Specific questions and responses are attached. Of particular note in the PFPF Interim Director responses is the lack of reference in PFPF Board of Trustees meeting minutes of the approval of securities litigation fees received directly by Robert D. Klausner, Esq. Ms. McCague reported that the PFPF Board of Trustees had working knowledge of at least the maximum legal fees that could be paid to the Klausner firm for work performed in relation to securities litigation, and noted that his only real involvement with class action suits on behalf of the PFPF would be in cases where the PFPF was the lead plaintiff. There are documented retainer agreements in several of the files in which the Fund has been lead plaintiff.

The Council Auditor reviewed the additionally requested and provided information and concluded the materials provided were responsive to the Subcommittee's request. Of particular note during such review by the Council Auditor was that PFPF policies allow the Fund Administrator to decide, without separate Board approval, whether or not to commence separate litigation or apply to the judge for lead plaintiff or co-lead plaintiff status.

Based on the meetings, discussions, and materials and information provided, the Subcommittee offers the following responses to Finance Chairman Gulliford's charge:

- 1) The material presented to the Finance Committee does not fully answer the questions asked, although material presented in response to additional inquiries and requests for information fully answered such additional questions.
- 2) The Finance Committee should not require Robert D. Klausner, Esq. to appear before the Finance Committee to answer questions at this time.
- 3) The Subcommittee recommends no further action regarding the subpoena issued to Robert D. Klausner, Esq. at this time.
- 4) The Subcommittee has no information or recommendations at this time.

I appreciate the opportunity to chair this Subcommittee to explore further the responses to the Finance Committee's requests for information regarding a matter of great importance to the community and our taxpayers. I extend my thanks: to my fellow Subcommittee members for their active involvement in this process; to the Council Auditor and his team for carrying out review procedures; and to the Finance Department and Office of

General Counsel for their participation and guidance. And, with emphasis, I thank the PFPF Interim Director, Board of Trustees, and staff members for their cooperation, prompt responsiveness, regular communication, and active interest in satisfying the Subcommittee requests.

Anna Lopez Brosche  
City Council Member, At-Large Group 1

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Attachments:

- 1) Subpoenas Issued to Police and Fire Pension Fund Board of Trustees Custodian of Records and to Robert D. Klausner, Esq. dated October 23, 2015
- 2) Memo from Council Auditor Regarding PFPF Commission Recaptures dated February 26, 2016
- 3) Klausner Subpoena Questions and Responses dated February 26, 2016

cc: Council Members/Staff  
Cheryl L Brown, Director/Council Secretary  
Jeff Clements, Chief – Research Division  
Dana Farris, Chief – Legislative Services  
Rachel Merritt, Information System Administrator  
Kirk Sherman, Council Auditor  
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