



Rights and Accountability in Development

26 September 2014

Open letter re. Och-Ziff

Dan Drake, State Retirement Director, Florida Retirement System

Michael G. Trotsky, Executive Director and Chief Investment Officer, Massachusetts Pension Reserves Investment Management Board

Scott L. Simon, Executive Director, Missouri Department of Transportation and Highway Patrol Employees' Retirement System

Christopher McDonough, Director, Division of Investments, Department of the Treasury, State of New Jersey

Karen Carraher, Executive Director, Ohio Public Employees Retirement System

Richard Stensrud, Chief Executive Officer, Sacramento County Employees' Retirement System

Gene Glass, Director, Texas County & District Retirement System

Daniel D. Andersen, Executive Director, Utah Retirement Systems

Dear pension fund executive,

RAID wrote to several pension funds, including your own, over a year ago, concerning the use of hedge fund Och-Ziff as an investment manager.

You will recall that RAID – which has a long-standing record of researching corporate conduct in southern and central Africa – drew your attention to our call for the Office of Foreign Assets Control (OFAC) and the UK authorities to investigate whether or not sanctions against Zimbabwe were breached when Och-Ziff funds were used in a 2008 transaction by a UK mining company to purchase lucrative platinum assets. Money paid to the Mugabe regime originated with a subsidiary of Och-Ziff Capital Management Group LLC and was used to fund the violent subversion of elections (more details [here](#)).

Our original letter raised several matters: verification of your pension fund's record of investment with Och-Ziff; the investment policies and principles applied by U.S. public pension funds; the views of any union representatives on the board concerned by investments of potential benefit to a regime

that the international labour movement has opposed; and a request to put questions to Och-Ziff about the Zimbabwean platinum transaction.

RAID never received a reply from you to our letter; in contrast, the Californian state pension fund (CalPERS) did respond and raised our initial concerns with Och-Ziff.

Since we wrote to you, Och-Ziff has disclosed ([here](#)) that, since 2011, both the Securities and Exchange Commission and the Department of Justice (under the Foreign Corrupt Practices Act) have been investigating certain of its investments in Africa.

Och-Ziff's announcement about the federal investigations was made while RAID was compiling a second report – [Och-Ziff, Mugabe's "Bagmen" and the underpricing of African assets](#) – which we published on 28 April 2014. The report covers dealings by Och-Ziff and its partners not only in Zimbabwe, but also in the Democratic Republic of the Congo (DRC) and Guinea.

On the day RAID released its report, the *Wall Street Journal* published an article on Och-Ziff's controversial Congo transactions. In June, *The Independent* wrote about 'The London connection: Former UK boss of Wall Street hedge fund could be drawn into corruption investigation'. More recently, on 21 and 22 August 2014, *Business Week* and *Bloomberg* published, respectively, 'Och-Ziff Platinum Deal Aided Despot in Time of Need' and 'The Hedge Fund and the Despot'. Most recently, on 5 September 2014, *Bloomberg* has revisited the controversy caused by the award of mining contracts in Guinea, citing an ongoing court case in which the defendant (BSG Resources Ltd.) has claimed that Och-Ziff are among dozens who knew of the "corrupt rigging" of the Guinea elections. Links to press follow-up is available [here](#).

Commenting on this 'bad press', CNBC quotes an adviser to institutional investors: 'It doesn't get any uglier than that in terms of a headline....They hire a firm like Och-Ziff to be the 'sleep at night' fund....When the ballast underperforms and gives you headline risk, it begs the question as to why it's there in the first place.' *Morningstar* analyst Stephen Ellis believes that clients can be 'rightly concerned about Och-Ziff's investment processes and may feel a bit more leery about putting more assets with Och-Ziff'.

In the US, CalPERS announced ([here](#)) on 15 September 2014 its intention to divest from all hedge funds, including Och-Ziff citing 'complexity and costs'. You are undoubtedly aware of the considerable debate over the future use and suitability of hedge funds in public pension portfolios that CalPERS's decision to divest has prompted.

In the light of the investigation by the US authorities into Och-Ziff and the disquieting questions that remain (Och-Ziff was given advance copy of our April 2014 report, but has not commented), please can you clarify:

- (i) the extent and timings of any investments made with Och-Ziff;
- (ii) whether your pension fund raised concerns about Och-Ziff's African investments with the hedge fund;
- (iii) what action your pension fund has taken or intends to take in respect of its investments with Och-Ziff and;
- (iv) on what basis your pension fund would consider divesting from an investment fund, given the governance and investment principles you use and the legal and fiduciary constraints that govern what your pension board can or cannot do.

We look forward to hearing from you in due course.

Yours sincerely,

Patricia Feeney

Patricia Feeney
Executive Director