

CONNECTICUT STATE ETHICS COMMISSION  
20 TRINITY STREET  
HARTFORD, CONNECTICUT 06106-1660

COMPLAINT

The State Ethics Commission issues a complaint alleging a violation of:

\_\_\_\_\_ The Code of Ethics for Public Officials and State  
Employees, Chapter 10, Part I, General Statutes

  X   The Code of Ethics for Lobbyists, Chapter 10, Part II,  
General Statutes

Time and date matters complained of occurred:

Calendar year 1999

Place violation occurred:

Hartford, CT

Persons involved:

Crossroads Investment Company, L.P.

Witnesses:

List to be provided at least 10 days prior to any hearings on the merits  
in this matter.

Circumstances which indicate that the Code of Ethics designated above was violated are  
as follows (a short, plain statement alleging a violation of Chapter 10, General Statutes):

Please see attached.

(over)

  
Signature

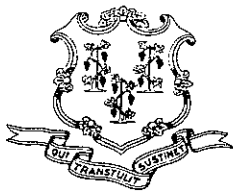
November 16, 2000  
Date

Complainant's Name and Address:

State Ethics Commission  
20 Trinity Street  
Hartford, CT 06106-1660

Complainant's Telephone Number:

(860) 566-4472



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

### CONFIDENTIAL

DOCKET NUMBER 2000-28

STATE ETHICS COMMISSION

IN THE MATTER OF A

20 TRINITY STREET

COMPLAINT AGAINST

HARTFORD, CT 06106

CROSSROADS INVESTMENT  
COMPANY, L.P

NOVEMBER 16, 2000

### COMPLAINT

1. On or about May 13, 1987, Crossroads Management Partners ("CMP") entered into an agreement (the "Original Agreement") with Finley Associates, Inc. (the "Consultant"). CMP is not and has never been an affiliate of Crossroads Investment Company, L.P. (the "Respondent").
2. Under the terms of the Original Agreement, CMP agreed to pay Consultant twenty percent of any management fees actually received by CMP with respect to capital commitments solicited from the Office of the Treasurer of the State of Connecticut ("The Treasurer") and invested into one of CMP's investment funds, Crossroads Constitution Limited Partnership (the "Partnership"). As a result of this solicitation, the Treasurer invested as the sole limited partner in the Partnership, which was managed by CMP and of which CMP was the general partner. The payment of fees to Consultant was contingent on the amount of management fees actually received by CMP from the Partnership.
3. Moreover, pursuant to this Original Agreement, Consultant agreed that it would be involved on an ongoing basis to keep clients informed as to CMP's activities and the venture capital environment generally.

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4. Pursuant to the Original Agreement, Consultant contacted the Office of the Treasurer to solicit and did obtain additional capital commitments for investment in the Partnership.
5. Consultant's continuing involvement with the Treasurer as required by the Original Agreement was essential to the maintenance of CMP's relationship with the Treasurer, the continuation of the payment of management fees to CMP, and the continuation of the payment of 20% of the management fees to Consultant. The payment of 20% of the management fees to Consultant was, therefore, contingent upon its performance of ongoing services under the Original Agreement and upon the continuation of the payment of management fees to CMP.
6. Pursuant to the Original Agreement, Consultant met with the Treasurer's Office on several occasions on behalf of CMP, including meetings with Paul Silvester in 1996, 1997 and 1998.
7. CMP earned substantial quarterly management fees from the Partnership. As a result, through mid-1998, CMP made payments to Consultant under the terms set forth in paragraph 2.
8. On or about August 31, 1998, CMP sold, transferred and conveyed to Respondent its general partner interest in the Partnership.
9. Shortly after the transfer of the general partnership interest from CMP to Respondent, George Finley and Peter Kelly, principals of Consultant, called Respondent asserting that Respondent was liable to Consultant under the Original Agreement based on the provisions of the purchase agreement between CMP and Respondent and threatening Respondent with litigation.
10. To protect itself, Respondent filed a declaratory judgment lawsuit in Connecticut in October 1998 to determine whether Respondent had any legal obligations to Consultant under the Original Agreement.
11. Because Respondent agreed to the purchase price of the CMP's general partnership interest believing that no payments would be due to Consultant, Respondent could have suffered a substantial economic loss in the event Consultant prevailed on its claims under the Original Agreement.

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12. In order to reach a comprehensive agreement, and after incurring significant legal costs and devoting substantial time to defense of the case, Respondent agreed with Consultant to both resolve the litigation claims and to set forth a plan to initiate a business relationship for the future that would involve on-going services that were materially identical to those that were to be performed by Consultant under the Original Agreement. To memorialize this agreement, Consultant and Respondent entered into a written contract on or about May 24, 1999 (the "New Agreement").
13. Pursuant to the New Agreement, in exchange for the release of all claims under and termination of the Original Agreement, Respondent agreed to pay Consultant the amount of \$488,250.00, which sum Respondent paid to Consultant at or about the time the New Agreement was executed.
14. Moreover, pursuant to the terms of the New Agreement, Consultant agreed to provide additional future services relating to maintenance of the business relationship between Respondent and the Treasurer's office, including acting as a liaison between Respondent and the Treasurer. In particular, Consultant agreed to use its best efforts to schedule annual meetings with the Treasurer to provide information on the performance of the Partnership and to discuss the venture capital environment in general. Consultant further agreed to provide information to Respondent regarding the Treasurer's office.
15. The services Consultant agreed to provide under the New Agreement were materially identical to the services Consultant agreed to provide under the Original Agreement. A continuation of these services was essential to Respondent because Respondent did not have a close relationship with the Treasurer's Office.
16. The representations concerning future services by Consultant were also significant to Respondent because The Treasurer has been and is an important client of Respondent.
17. In exchange for Consultant's promise to provide the specified future services set forth in the New Agreement, Respondent was obligated to compensate Consultant for such future services by making quarterly payments through the year 2004 in the aggregate sum of \$1,841,750.00. Under the New Agreement, quarterly payments would be reduced to the extent that the actual amounts realized by Respondent from the management fees generated by its work on behalf of the Treasurer were also reduced.
18. The management fees could be reduced in several ways, including the following: (a) The Treasurer sells its partnership interest to another party; or (b) Respondent and the Treasurer agree to a reduction in fees.

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19. The Treasurer could also request a withdrawal of funds from the Partnership or a transfer of its Partnership interest. If allowed, this withdrawal or transfer would cause the termination of management fees and the resultant fee to Consultant under either the New Agreement or the Original Agreement, if reinstated.
20. Because of the possibility of a full or partial withdrawal, which could have occurred in one of the ways as described in paragraphs 18 or 19 above, the payments described in paragraph 2, 5, and 17 above were contingent on the Treasurer maintaining its current level of investment.
21. Respondent paid Consultant a quarterly payment of \$92,087.50 in July 1999. Respondent has made no further payments under the Original Agreement or the New Agreement because it learned in September 1999 that the Original Agreement and portions of the New Agreement could be illegal under Connecticut law. Lawsuits concerning the Original Agreement and New Agreement between Respondent and Consultant are currently pending in Connecticut State Court and federal court in Texas. These lawsuits could result in the rescission of the New Agreement and the reinstatement of the Original Agreement to the extent applicable.
22. With exceptions not relevant, pursuant to Conn. Gen. Stat. § 1-91(a), administrative action includes any action or nonaction of any executive agency of the state regarding a contract of that agency.
23. Pursuant to Conn. Gen. Stat. § 1-94(2), a lobbyist shall register with the State Ethics Commission if it makes or incurs an obligation to make expenditures of two thousand dollars or more in a calendar year for lobbying.
24. Pursuant to Conn. Gen. Stat. § 1-91(k), lobbying means communicating directly or soliciting others to communicate with any official or his staff in the executive branch of government for the purpose of influencing any administrative action.
25. The New Agreement, as described in paragraphs 14 through 17 above, is an agreement to engage in administrative lobbying to maintain and/or enter into a new contract with the Office of the Treasurer.
26. The Original Agreement, as described in paragraphs 2 through 5 above, is an agreement to engage in administrative lobbying to maintain and/or enter into a new contract with the Office of the Treasurer.
27. Respondent failed to register in calendar year 1999.
28. The failure to register is a violation of Conn. Gen. Stat. § 1-94(2).

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29. Pursuant to Conn. Gen. Stat. § 1-96(a), a registrant shall file periodic financial disclosure reports with the State Ethics Commission regarding its lobbying activities.
30. Respondent failed to file the required financial disclosure reports in 1999.
31. Each failure to file a required report is a violation of Conn. Gen. Stat. § 1-96(a).
32. Pursuant to Conn. Gen. Stat. § 1-97(b), no person shall be employed as a lobbyist for compensation which is contingent upon the outcome of any administrative action.
33. Public Act No. 94-69 (effective January 1, 1995) added to the definition of administrative action the lobbying activity described in paragraphs 2 through 6, 14, and 15 above.
34. As more fully described in paragraphs 14 through 20 and 25 above, Respondent, by entering into the New Agreement, entered into a contingent fee payment arrangement with Consultant in violation of Conn. Gen. Stat. § 1-97(b).
35. Each of the payments made and to be made, as described in paragraph 17 above, are contingent fee payments in violation of Conn. Gen. Stat. § 1-97(b).
36. Under Conn. Agencies Reg. § 1-92-42c, no fee shall be paid or received for lobbying which is contingent upon the outcome of any matter added to the definition of administrative action, regardless of when the underlying employment agreement was entered into if, as of January 1, 1995, said outcome remains, in any way, to be determined.
37. The Original Agreement, as more fully described in paragraphs 2 through 5 above, became a contingent fee payment arrangement prohibited by Conn. Gen. Stat. § 1-97(b) because Consultant was continuing to provide and obligated to continue to provide services and continuing to be paid under the Original Agreement after January 1, 1995.
38. Any payments made and to be made after January 1, 1995 under the Original Agreement are contingent fee payments in violation of Conn. Gen. Stat. § 1-97(b). Any such payments made, or to be made at any time after November 16, 1997, are subject to the enforcement and penalty provisions of the Code of Ethics for Lobbyists, Chapter 10, Part II, Connecticut General Statutes.



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

### CONFIDENTIAL

DOCKET NUMBER 2000-28

STATE ETHICS COMMISSION

IN THE MATTER OF A

20 TRINITY STREET

COMPLAINT AGAINST

HARTFORD, CT 06106

CROSSROADS INVESTMENT COMPANY,  
L.P.

NOVEMBER 22, 2000

### STIPULATION AND ORDER

Pursuant to Connecticut General Statutes §4-177(c), the State Ethics Commission and Respondent agree to settle this matter in the manner described below:

1. The Commission and Respondent stipulate to the truth of the facts alleged in the Complaint, dated November 16, 2000, filed against Respondent.
2. The Commission finds that Respondent unknowingly and unintentionally violated the Code of Ethics for Lobbyists as alleged in the Complaint. More specifically, the Commission finds that Respondent unknowingly and unintentionally
  - failed to register as a lobbyist in calendar year 1999 in violation of Conn. Gen. Stat. § 1-94(2);
  - failed to file the required financial disclosure reports in 1999 in violation of Conn. Gen. Stat. § 1-96(a); and
  - entered into a contingent fee payment arrangement with Consultant in violation of Conn. Gen. Stat. § 1-97(b) to the extent that the New Agreement alleged in the Complaint ("New Agreement") required Respondent to make quarterly payments to the Consultant in exchange for administrative lobbying services.



3. The Commission also finds that the Original Agreement as alleged in the Complaint ("Original Agreement") became an agreement to engage in administrative lobbying in exchange for a contingent fee payment in violation of Conn. Gen. Stat. § 1-97(b) after January 1, 1995. Consequently, after said date, the Commission finds that any payments made and to be made under the Original Agreement are illegal contingent fee payments in violation of Conn. Gen. Stat. § 1-97(b). Any such payments made, or to be made at any time after November 16, 1997, are subject to the enforcement and penalty provisions of the Code of Ethics for Lobbyists, Chapter 10, Part II, Connecticut General Statutes.

4. Respondent agrees that it did not knowingly violate the Code, and states that it was not aware of the registration and reporting requirements of the Lobbyist Code. Specifically, Respondent, a Delaware limited partnership with its principal place of business and headquarters in Texas, did not have reason to know that efforts regarding the Office of the Treasurer described in the Original Agreement and the New Agreement were considered administrative lobbying.

5. Respondent waives any rights it may have under Conn. Gen. Stat. §§ 1-93, 1-93a, 1-98 and 1-80, including the right to a hearing or appeal in this case, and agrees with the Commission to an informal disposition of this matter as authorized by Conn. Gen. Stat. § 4-177(c).

6. This Stipulation and Order concludes the Commission's investigation into the conduct of Respondent and Crossroads Constitution Limited Partnership, including the investigation referenced in a letter from the Commission to Respondent, dated November 2, 1999, and constitutes the final penalties related to the Original Agreement and the New Agreement against Respondent.

WHEREFORE, the State Ethics Commission enters the following orders in lieu of any other action regarding this matter:

1. Respondent agrees to file the required financial disclosure forms for calendar year 1999 within sixty days;
2. Respondent agrees to pay a civil penalty of \$2000.00 to the State Ethics Commission within thirty days of this Stipulation and Order;
3. Respondent will cease and desist making any future contingency payments to Consultant alleged in the Complaint ("Consultant"), including but not limited to, any payments under the Original Agreement and the New Agreement;
4. Respondent will make any payments which would have been owed to Consultant under the New Agreement, but for the illegality of the New Agreement, in the amount of \$1,749,662.50 to the Office of the Treasurer, less any costs and expenses Respondent has incurred in connection with litigation against Consultant in the amount of \$548,423.00 relating to the Original Agreement and/or New

Agreement, excluding costs and expenses in connection with the Ethics Commission proceedings, and less any amounts for which Respondent may be found liable to Consultant;

5. Payments shall be due pursuant to paragraph 4 above only after the entry of a final, non-appealable order in or settlement of all litigation with Consultant; and
6. Respondent will henceforth comply with the Code of Ethics for Lobbyists.

Although the Respondent acknowledges that Commission also has the authority to fine Respondent an amount equal to the contingency fee paid and to be paid to Consultant, the Commission declines to do so based on the following reasons:

Respondent did not enter into the Original Agreement with Consultant.

Respondent has agreed to make payments which would have been owed to Consultant under the New Agreement, but for the illegality of the New Agreement, to the Office of the Treasurer, thereby avoiding any unjust enrichment.

Respondent was significantly economically harmed when then-Treasurer Paul Silvester, in connection with a \$100 million commitment by the State to a fund of Respondent, requested that Respondent pay a finder's fee to an unnamed finder. Respondent refused to pay any such fee and, shortly thereafter, Respondent was informed that the State would not proceed with the \$100 million commitment.

Upon learning of the ban on contingent fee lobbying, Respondent immediately ceased payments pursuant to the New Agreement and pursued litigation against Consultant concerning the matters described in the Complaint.

Respondent fully cooperated in the investigation and resolution of this matter and agrees to fully cooperate in any further Commission enforcement proceedings.

\_\_\_\_\_  
Chairperson, State Ethics Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date