

May 12, 2009

Mr. Stuart A. Bender  
Assistant General Counsel and  
Designated Agency Ethics Officer  
Office of Management and Budget  
Room 5001, NEOB  
725 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20503

Re: Ethics Agreement

Dear Mr. Bender:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Director for Management, Office of Management and Budget.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In order to avoid any potential conflicts of interest, within 90 days of my confirmation, I will divest my interests in the entities listed in Attachment A. With regard to each of the entities listed in Attachment A, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Upon confirmation, I will resign from my positions with Portfolio Logic LLC and Portfolio Logic Management LLC. For one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my position with Sirius XM Radio. I will forfeit all Sirius XM Radio stock options that are unvested at the time of my resignation. Following my appointment, I will divest my vested stock options and stock in Sirius XM Radio by exercising all such options and divesting all stock within 90 days of my confirmation. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity until I have divested it, unless I first

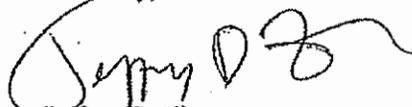
obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). For a period of one year after my resignation, I also will not participate personally and substantially in any particular matter involving specific parties in which Sirius XM Radio is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my positions with the following entities: Sirius XM Radio, PSA Healthcare, Best Practices, Timbuk2 Design, Urban Alliance Foundation, Citybridge Foundation, CL TBT Investor, Zients Family Foundation, Richard Alexander LePere Trust, Dana Joan LePere Trust, Thomas R. Nides First Irrevocable Trust, and Thomas R. Nides Second Irrevocable Trust. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I have been advised that the duties of the position of Deputy Director for Management may involve particular matters affecting the financial interests of the following entities: PSA Healthcare, Best Practices and Timbuk2 Design. The agency has determined that it is not necessary at this time for me to divest my interests in these entities because my recusal from particular matters in which these interests pose a conflict of interest will not substantially limit my ability to perform the essential duties of the position of Deputy Director for Management. Accordingly, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of any of these entities, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Sincerely,



Jeffrey D. Zients

Enclosure: Attachment A

## Attachment "A"

**Jeffrey D. Zients**

### **List of Assets to be Divested in Accordance with Ethics Agreement Letter dated May 12, 2009.**

1. Sirius XM Radio Stock Options
2. Sirius XM Radio Stock
3. Sankaty Credit Opportunities, LP Fund
4. Sankaty Credit Opportunities IV, LP Fund
5. Sankaty High Yield Partners III, LP Fund
6. Prospect Harbor Credit Partners, LP Fund
7. AVI Biopharma Inc.
8. MedCath Corp.
9. WF Holding Company LLC
10. Blacklight Power
11. Scientific Development and Integration
12. Cedar Creek Associates, LP
13. Black Bear Fund II, LLC
14. Focused Fund
15. Ciena
16. Appfluent Technology
17. D3 Family Bulldog Fund, LP
18. D3 Family Fund
19. Keywise Greater China Opportunity Fund
20. Spinnaker Global Strategic Fund
21. Intermtn Power Agency UT Municipal Bond