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Chancery Division Civil Cover Sheet
General Chancery Section

(12/01/20) CCCH 0623

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

Christopher Tobe

Plaintiff
v.
The Retirement Board of the PABF of Chicago

Defendant

Case No: _____

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

Only one (1) case type may be checked with this cover sheet.

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| 0005 <input type="checkbox"/> Administrative Review | 0017 <input type="checkbox"/> Mandamus |
| 0001 <input type="checkbox"/> Class Action | 0018 <input type="checkbox"/> Ne Exeat |
| 0002 <input checked="" type="checkbox"/> Declaratory Judgment | 0019 <input type="checkbox"/> Partition |
| 0004 <input type="checkbox"/> Injunction | 0020 <input type="checkbox"/> Quiet Title |
| 0007 <input type="checkbox"/> General Chancery | 0021 <input type="checkbox"/> Quo Warranto |
| 0010 <input type="checkbox"/> Accounting | 0022 <input type="checkbox"/> Redemption Rights |
| 0011 <input type="checkbox"/> Arbitration | 0023 <input type="checkbox"/> Reformation of a Contract |
| 0012 <input type="checkbox"/> Certiorari | 0024 <input type="checkbox"/> Rescission of a Contract |
| 0013 <input type="checkbox"/> Dissolution of Corporation | 0025 <input type="checkbox"/> Specific Performance |
| 0014 <input type="checkbox"/> Dissolution of Partnership | 0026 <input type="checkbox"/> Trust Construction |
| 0015 <input type="checkbox"/> Equitable Lien | 0050 <input type="checkbox"/> Internet Take Down Action (Compromising Images) |
| 0016 <input type="checkbox"/> Interpleader | <input type="checkbox"/> Other (specify) _____ |

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Pro Se Only: I have read and agree to the terms of the Clerk's Clerk's Office Electronic Notice Policy and choose to opt in to electronic notice from the Clerk's office for this case at this email address:

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FILED DATE: 8/31/2021 12:45 PM 2021CH04399

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

Christopher Tobe * Case No. **2021CH04399**
c/o Advocate Attorneys, LLP *
1629 K St. NW, Suite 300 *
Washington, DC 20006 *

Plaintiff *

vs. *

The Retirement Board of the * COMPLAINT FOR INJUNCTION
Policemen’s Annuity and Benefit Fund * AND DECLARATORY JUDGEMENT
of Chicago *
221 North LaSalle St, Suite 1626 *
Chicago, IL 60601 *

Defendant.

For his Complaint against Defendant, Plaintiff says as follows:

Jurisdiction and Parties

1. This action seeks declaratory and injunctive relief under the Illinois Freedom of Information Act. This Court has jurisdiction over this matter pursuant to 5 ILCS 140/11(c).
2. Plaintiff is a Chartered Financial Analyst who has been retained by a group of retired Chicago police officers to conduct an examination of the operations of, and investments made and held by, the Policemen’s Annuity and Benefit Fund of Chicago (the “Fund”). Plaintiff brings this suit in furtherance of his examination.

3. Defendant is the administrator of the Fund and possesses all authority over the operations and responsibilities of the Fund.
4. The Fund is a single employer, defined benefit pension plan, that provides retirement, survivors, and disability benefits to sworn members of the Chicago Police Department, their spouses, and children. The Fund is subject to the provisions of the Illinois Freedom of Information Act (“FOIA”).

Facts

5. On or about June 7, 2021, Plaintiff made a Freedom of Information Act request to Defendant requesting all annual reports issued to the Fund by each manager for the years ending 2015, 2016, 2017, 2018, 2019, and 2020, as well as the first quarter 2021, including reports that include valuation, performance, and management fees for each investment, and including all alternative investment managers.
6. By letter dated July 7, 2021, Defendant refused to provide Plaintiff any of the requested reports related to private market investments (e.g. Private Equity, Hedge Funds, Real Estate, Private Debt, Infrastructure) because, according to Defendant, such records were exempt from production pursuant to “5 ILCS 140/7(1)(g) in that said information constitutes “trade secrets and commercial or financial information obtained by [the Fund] from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund,” under a claim that said information is

“proprietary, privileged or confidential,” the disclosure of which would cause competitive harm.”

7. On or about June 7, 2021, Plaintiff made a FOIA request to Defendant requesting, inter alia, “the names of the underlying funds in all of the funds of funds invested in since 2015 by fund of fund. This includes private equity, hedge fund and other funds of funds.”
8. On or about June 14, 2021, Defendant disclosed the names of all fund-of-funds the Fund had invested in since 2015 but did not provide documents that identified the names of the underlying funds in such funds-of-funds, claiming that no such documents exist. Such a response is implausible given the fiduciary responsibilities of the Fund to its beneficiaries.
9. On or about June 21, 2021, Plaintiff made a FOIA request to Defendant requesting:

Investment Manager Contracts
All contracts, including any offering documents and subscription agreements, between the fund and its investment managers from managers held since 2015 including those hired before 2015, but held into 2015 forward. Please list all investments in limited partnerships and provide those partnership agreements and documents. This includes private equity, hedge funds and real estate.
10. On or about July 7, 2021, Defendant denied Plaintiff’s request in its entirety under 5 ILCS 140/7(1)(g).
11. On or about June 21, 2021, Plaintiff made a FOIA request to Defendant requesting the “last 6 years of the Illinois Economic Opportunity Investments by the POLICEMEN'S ANNUITY & BENEFIT FUND OF CHICAGO made by this retirement system as required by Section 1A-108.5 of the Illinois Pension Code.

12. On or about June 25, 2021, Defendant produced to Plaintiff copies of the requested document. However, Defendant had redacted those portions of the documents that disclosed information regarding all private-market investments held by the Fund because:

Certain information has been redacted and properly withheld from the enclosed documents pursuant to 5 ILCS 140/7(1)(g) in that said information constitutes “trade secrets and commercial or financial information obtained by [the Fund] from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund,” under a claim that said information is “proprietary, privileged or confidential,” the disclosure of which would cause competitive harm.

Count I
(Declaratory Judgment)

13. Most, if not all, of the documents requested by Plaintiff, as described in paragraphs 5, 7, and 9 above, do not involve “private equity funds” and therefore are not exempt under 5 ILCS 140/7(1)(g).
14. As a result, Defendant’s refusal to produce the requested documents, as described in paragraphs 5, 7, and 9 above, is not supported by FOIA and was an improper denial of access to the requested documents.
15. Pursuant to 5 ILCS 140/11, Plaintiff is entitled to judgment declaring the requested documents, as described in paragraphs 5, 7, and 9 above, to be public records subject to disclosure under the Illinois Freedom of Information Act.
16. Plaintiff is further entitled to judgment declaring Defendant’s denial to produce the requested documents, as described in paragraphs 5, 7, and 9 above, to be willful and intentional, or in bad faith.

Prayer for Relief

WHEREFORE, Plaintiff demands judgment against Defendant declaring all requested documents, as described in paragraphs 5, 7, and 9 above, to be subject to disclosure under the Illinois Freedom of Information Act, and awarding Plaintiff statutory damages and reasonable attorney fees as permitted by 5 ILCS 140/11.

Count II
(Declaratory Judgment)

17. Plaintiff incorporates herein the allegations of paragraphs 1 through 16 above as if fully rewritten.

18. To the extent the requested records, as described in paragraphs 5, 7, and 9 above, did pertain to “private equity funds” such as to trigger the exemption of 5 ILCS 140/7(1)(g), Plaintiff is entitled to judgment declaring 5 ILCS 40/7(1)(g) to be in irreconcilable conflict with Illinois Constitution Art VIII, Section 1(c), which states:

Reports and records of the obligation, receipt and use of public funds of the State, units of local government and school districts are public records available for inspection by the public according to law.

Prayer for Relief

WHEREFORE, Plaintiff demands judgment against Defendant declaring 5 ILCS 140/7(1)(g) to be unconstitutional and awarding Plaintiff reasonable attorney fees as permitted by 5 ILCS 140/11.

Count III
(Injunctive Relief)

19. Plaintiff incorporates herein the allegations of paragraphs 1 through 18 above as if fully rewritten.

20. Pursuant to 5 ILCS 140/11, Plaintiff is entitled to injunctive relief mandating Defendant to promptly produce to plaintiff all records requested above.

Prayer for Relief

WHEREFORE, Plaintiff demands judgment against Defendant mandating that it promptly produce to Plaintiff all requested documents and awarding Plaintiff reasonable attorney fees as permitted by 5 ILCS 140/11.

DATED: August 31, 2021

ADVOCATE ATTORNEYS, LLP

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