

March 5, 2001

BY HAND AND FACSIMILE

Jonathan G. Katz, Secretary  
Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549-0609

Re: Hearing Request

Dear Mr. Katz:

On behalf of Fund Democracy, LLC, I hereby request a hearing on the application filed by Hillview Investment Trust II and Hillview Capital Advisors, LLC (“Applicants” or “Hillview”) on November 15, 2000, SEC File No. 812-12062.

Reasons for the Hearing Request

Applicants request relief under Section 6(c) of the Investment Company Act of 1940 (“Act”) from Section 15(a) of the Act and Rule 18f-2 under the Act. Applicants’ request is not necessary or appropriate in the public interest, consistent with the protection of investors, or consistent with the purposes fairly intended by the policy and provisions of the Act.

Applicants propose to operate a multimanager fund that would hire subadvisers and increase Hillview Capital Advisors’ fees without obtaining shareholder approval. Since the first multimanager voting exemption was granted in 1995, dozens of funds operating under such an exemption have done so in a manner that appears to violate the conditions under which the exemption was granted and is inconsistent with the basis on which the Commission has granted multimanager relief. These funds are multimanager in name only, typically employing only one subadviser for years on end, misleading investors about the true single-manager nature of the fund, and using the exemption to raise their managers’ fees without shareholder approval.

The operation of these funds demonstrates that the conditions under which multimanager relief are inadequate, and that granting Applicants’ request under the conditions as proposed would fail to satisfy the requirements of Section 6(c).

## Issues Contested

A hearing is requested on the Application to determine:

- Whether a fund that never has more than one subadviser and does not intend to replace that subadviser frequently, and therefore is functionally similar to a single-manager fund, should be able to hire a new subadviser, or increase the manager's fee or the subadviser's fee, without shareholder approval;
- Whether providing extensive information about a multimanager fund's subadviser(s) near the front of the prospectus, with greater prominence and specificity than information provided about the manager near the back of the prospectus, and providing no or almost no information about the manager's role in overseeing the fund's subadviser(s), complies with the condition proposed by Applicants that any fund relying on the order will hold itself out to the public as employing a multimanager structure;
- Whether disclosing the existence, substance and effect of a multimanager order, and the fact that the manager has the ultimate responsibility for hiring subadvisers, only in the discussion of fund management, complies with the condition proposed by Applicants that any fund relying on the order will "prominently disclose" the effect of the order;
- Whether investors may be misled by the inclusion of the name of a multimanager fund's subadviser in the name of the fund by suggesting that they should not rely on the manager, but rather on the subadviser whose name is part of the fund's name, and by suggesting that investors have the right to vote on any increase in the subadviser's fees or its replacement, as would be the case for any other fund named after the subadviser; and
- Whether the manager of a multimanager fund should be permitted, without a shareholder vote, to increase its advisory fee by reducing subadvisory fees.

## Statement of Interest

Fund Democracy is a Maryland limited liability company formed on January 27, 2000. Fund Democracy serves as an advocate and information resource for mutual fund shareholders through a multi-faceted advocacy and educational program.

Fund Democracy publishes articles that target mutual fund practices, policies and rules that are harmful to fund shareholders.<sup>1</sup> Fund Democracy also formulates advocacy

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<sup>1</sup> See, e.g., Voting Rights II: How Funds Raise Fees Without a Shareholder Vote, TheStreet.com (Feb. 15, 2001); A Voting Rights Issue That Hits Home for Investors, TheStreet.com (Feb. 13, 2001); Industry Trying to Defang Law Disclosing the Tax Bite on Fund Returns, TheStreet.com (Feb. 8, 2001) SEC Finally Moves to Stop Arbs Who Prey on Foreign Funds, TheStreet.com (Feb. 6, 2001); Despite SEC Efforts, Accuracy in Fund Names is Still Elusive, TheStreet.com (Jan. 30, 2001); From Worst to First: Jacob

initiatives and, in concert with diverse consumer, investor, employee and professional groups, seeks to effectuate reforms that will benefit mutual fund shareholders. These initiatives include submitting comment letters on rule proposals, asking for hearings on requests for exemptions from fund regulations, lobbying federal and state legislators, submitting rulemaking petitions, and participating in selected litigation on a pro bono basis.<sup>2</sup>

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Please find enclosed a Memorandum in Support of Hearing Request and proof of service upon applicants in the form of an affidavit.

Sincerely,

Mercer E. Bullard  
Founder & CEO

cc: The Honorable Laura S. Unger  
The Honorable Isaac C. Hunt, Jr.  
The Honorable Paul R. Carey  
Paul F. Roye, Esq.

Enclosure

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Internet Moves to Cutting Edge of Disclosure, TheStreet.com (Jan. 26, 2001); What's An Excessive Fee? Courts Leave it to Funds to Decide, TheStreet.com (Jan. 24, 2001); No Matter How You Slice Them, Mutual Fund Fees Should be Lower, TheStreet.com (Jan. 23, 2001); Make 2001 the Year You Become an Activist Fund Shareholder, TheStreet.com (Jan. 2, 2001); Misleading Fund Performance Claims? 'The SEC Made Me Do It,' TheStreet.com (July 15, 2001); Barbarians at the Gate, On Wall Street (June 2000) & Financial Planning Magazine (June 2000); As 401(k) Plans Spread, The Information Gap Becomes More Glaring, TheStreet.com (May 27, 2000); The Fund Prospectus: Yesterday's News, SmartMoney.com (May 11, 2000); Heads in the Sand, Barron's (April 10, 2000).

<sup>2</sup> Last May, Fund Democracy and the Consumer Federation of America asked the Commission to hold a hearing on a request by Barclays Global Fund Advisors to offer a series of exchange-traded funds. Fund Democracy and the CFA withdrew their requests when Barclays agreed to provide on its web site and in fund documents information regarding the trading history of their exchange-traded funds. Last June, Fund Democracy and the Financial Planning Association petitioned the SEC to adopt the misleading names rule (which was adopted last January) and to require more frequent, online disclosure of mutual fund holdings. Twelve other groups have since filed similar petitions, including the CFA, Consumers Union, Consumer Action, National Association of Investors Corporation, AFL-CIO, and Teamsters. For more information about these and other initiatives, see [http://www.funddemocracy.com/articles\\_and\\_advocacy.htm](http://www.funddemocracy.com/articles_and_advocacy.htm).