



**ND STATE INVESTMENT BOARD
SECURITIES LITIGATION COMMITTEE MEETING**

Tuesday, August 11, 2020, 2:00 p.m.
North Dakota Retirement and Investment Office (RIO)
RIO Conference Room (Virtual)
Teleconference 701-328-0950, Participant Code 170329189#
3442 East Century Avenue, Bismarck, ND

AGENDA

1. Call to Order and Approval of Agenda – Chief Deputy Attorney General Seibel **Committee Action**
2. Minutes (April 30, 2020) **Committee Action**
3. Annual Review of Securities Litigation Committee Charter – Mr. Hunter (15 minutes) *Informational*
 - a. Annual Election of Chair and Vice Chair and Review of SLC Charter/Policy **Committee Action**
 - b. Committee Approved Securities Litigation Firms *Informational*
4. Securities Litigation Case Updates (15 minutes) *Informational*
 - a. K&L Gates (WG Trading) – Mr. Robert Sparkes and Mr. John Blessington
 - b. K&L Gates (Tribune) – Mr. Ryan Tosi
5. Other - Next Proposed SIB Securities Litigation Committee Meeting

North Dakota Retirement and Investment Office
3442 E Century Ave, Bismarck, ND 58503
Thursday, November 5, 2020 at 1:00 PM
6. Adjournment

Any individual requiring an auxiliary aid or service should contact the Retirement and Investment Office at (701) 328-9885 at least (3) days prior to the scheduled meeting.

**NORTH DAKOTA STATE INVESTMENT BOARD
SECURITIES LITIGATION COMMITTEE
MINUTES OF THE APRIL 30, 2020, MEETING**

MEMBERS PRESENT: Troy Seibel, Chair
Jodi Smith, Vice Chair
Dean DePountis, Attorney General's Office
Connie Flanagan, Chief Financial Officer
David Hunter, Executive Director/CIO

STAFF PRESENT: Bonnie Heit, Admin Svs Suprv

GUESTS: Craig D'Allessio, Financial Recoveries Technologies
Michael Lange, Financial Recoveries Technologies

CALL TO ORDER:

Mr. Seibel, Chair, called the State Investment Board (SIB) Securities Litigation Committee (SLC) special meeting (virtual) to order at 8:00 a.m. on Thursday, April 30, 2020, at the Retirement and Investment Office (RIO), 3442 E Century Ave, Bismarck, ND.

AGENDA:

IT WAS MOVED BY COMMISSIONER SMITH AND SECONDED BY MR. HUNTER AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE APRIL 30, 2020, MEETING.

AYES: COMMISSIONER SMITH, MS. FLANAGAN, MR. DEPOUNTIS, MR. HUNTER, AND MR. SEIBEL

NAYS: NONE

MOTION CARRIED

MINUTES:

IT WAS MOVED BY COMMISSIONER SMITH AND SECONDED BY MR. DEPOUNTIS AND CARRIED BY A VOICE VOTE TO ACCEPT THE MINUTES OF THE NOVEMBER 7, 2019, MEETING AS DISTRIBUTED.

AYES: MS. FLANAGAN, MR. DEPOUNTIS, MR. HUNTER, COMMISSIONER SMITH, AND MR. SEIBEL

NAYS: NONE

MOTION CARRIED

SECURITIES LITIGATION:

SLC Member - Mr. Hunter welcomed Mr. Dean DePountis to the SLC. Mr. DePountis is RIO's legal counsel effective April 1, 2020.

Pending Securities Litigation - Mr. Hunter and Financial Recoveries Technologies (FRT) representatives briefed the SLC on the international securities litigation case against Nissan Motor Co. Ltd (Nissan). The proposed action alleges that investors in Nissan suffered damages as a result of financial misconduct.

The merits of the case were reviewed: 1) estimated damages are approximately \$780,000; 2) the legal jurisdiction is Japan; and 3) the SIB approved litigation threshold for Japan is \$1 million.

FRT, for registration purposes, estimated a 25% recovery which is a gross loss recovery of \$300,000 or an estimated \$225,000 net loss recovery after up to a 25% contingent fee arrangement. The contingent fee arrangement may require the approval of the ND Emergency Commission.

RIO requested the SLC to consider having FRT engage Kessler, Topaz, Meltzer, Check LLP to Opt-In into international group securities litigation to recover an estimated \$117,000 - \$150,000 in net loss recoveries from an alleged fraud committed by Nissan.

The recommendation is consistent with the SIB approved SLC Charter and Policy noting the jurisdictional threshold for Japan is \$1 million and is classified as Low Risk for Costs and Discovery by FRT.

The participation deadline is May 1, 2020.

IT WAS MOVED BY COMMISSIONER SMITH AND SECONDED BY MS. FLANAGAN AND CARRIED BY A ROLL CALL VOTE TO ACCEPT STAFF RECOMMENDATION.

AYES: COMMISSIONER SMITH, MR. HUNTER, MR. DEPOUNTIS, MS. FLANAGAN, AND MR. SEIBEL

NAYS: NONE

MOTION CARRIED

OTHER:

The next Securities Litigation meeting is scheduled for Tuesday, May 19, 2020, at 1:00 p.m. at the Retirement and Investment Office, 3442 East Century Avenue, Bismarck, ND.

ADJOURNMENT:

With no further business to come before the SLC, Mr. Seibel adjourned the meeting at 8:16 a.m.

Mr. Seibel, Chair

Bonnie Heit
Recorder

Committee Action Requested

TO: SIB Securities Litigation Committee (SLC)
FROM: Dave Hunter and Connie Flanagan
DATE: August 11, 2020
SUBJECT: **Annual Election of Officers and Review of SLC Charter/Policy**

Securities Litigation Committee, Charter and Policy Background:

Committee - On January 26, 2018, the SIB established a new five member Securities Litigation Committee (SLC) which currently included Chief Deputy Attorney General Troy Seibel, Land Commissioner Jodi Smith, Assistant Attorney General Dean DePountis, RIO Chief Financial Officer Connie Flanagan and RIO Executive Director Dave Hunter.

Charter and Policy - On April 27, 2018, the SIB unanimously approved the original Securities Litigation Committee Charter and Securities Monitoring and Litigation Policy. [On May 24, 2019, the SIB unanimously approved the revised Securities Litigation Committee Charter and Securities Monitoring and Litigation Policy as follows.](#)

**CHARTER OF THE
SECURITIES LITIGATION COMMITTEE OF THE
NORTH DAKOTA STATE INVESTMENT BOARD**

PURPOSE

The Securities Litigation Committee (the Committee) is a standing committee of the North Dakota State Investment Board (SIB) created to assist in fulfilling its fiduciary oversight responsibilities of monitoring the investment of assets entrusted to it by the various statutory and contracted funds, and to serve as a communications link for the SIB, RIO's management and staff, third party securities litigation firms, and others.

The Committee will determine when an active role should be pursued in regards to securities litigation affecting securities within the SIB's portfolios.

AUTHORITY

The Committee is authorized to:

- draft policy (to be formally approved by SIB) regarding dollar and/or risk thresholds for determining when to opt-out of class actions and/or seek direct litigation or lead plaintiff status;

- based on SIB approved policy, make decisions on the level of participation the SIB will take in direct litigation, opt-in or group litigation, anti-trust and other class actions; and
- approve the selection of special assistant attorneys in cases of direct litigation.

COMPOSITION

The Committee will consist of the Executive Director of RIO, one member of RIO fiscal or investment staff, RIO general counsel, and two members of the SIB appointed by the Chair.

Membership on the Committee will be for one year or termination of term on the SIB. Vacancies will be filled by the SIB Chair at the first scheduled meeting following the vacancy. There will be no limit to the number of terms served on the Committee.

The Committee will elect a Chair and a Vice Chair. The Chair will preside at all meetings of the Committee and serve as the liaison to the SIB. In the absence of the Chair, the Vice Chair will perform the duties of the Chair. The liaison will report at least two times a year to the SIB on the activities of the Committee and other pertinent information.

The Committee may form, and delegate authority to, subcommittees when it deems appropriate.

MEETINGS

The Committee will meet generally three times a year, with authority to convene additional meetings, as circumstances require or to adequately fulfill all the obligations and duties as outlined in this charter.

Meeting agendas will be prepared by the Executive Director and approved by the Committee Chair, unless otherwise directed by the Committee and will be provided to the Committee members along with briefing materials before the scheduled committee meeting.

Committee members are expected to attend each meeting, in person or via tele- or video-conference. RIO's executive management and others necessary to provide information and to conduct business will attend meetings. The Committee may invite staff of RIO or others to attend meetings, as necessary. The Committee may hold executive sessions as allowed under state law.

The Committee will act only on the affirmative vote of three of the committee members at a meeting. To conduct business, a quorum will be three members of the Committee. Should a quorum not be present before a scheduled meeting or during a meeting, the Chair will announce the absence of a quorum and the members will disburse. Meetings unable to transact business for lack of a quorum are not considered meetings. Meeting minutes will be prepared by RIO, or as otherwise directed by the Committee. Approved meeting minutes of the Committee will be submitted to the SIB.

RESPONSIBILITIES

RIO's management is responsible for ongoing monitoring of securities litigation and claims filing. Based on SIB approved policy guidelines, the Committee has the responsibility to provide oversight in the areas of:

- policy development
- determination on direct litigation and/or lead plaintiff status
- approval of special assistant attorneys (outside counsel)

To this end, the Committee will:

- Develop initial policy and periodically review policy to determine if changes are needed.
- Review reports from RIO staff and third parties in order to maintain awareness of potential and actual securities litigation affecting the SIB portfolios.
- Make decisions on whether to pursue direct litigation and/or lead plaintiff status on cases exceeding policy thresholds for passive participation.
- Select third party litigation firms when deemed appropriate.
- Perform other activities related to this charter as requested by the SIB.
- Review and assess the adequacy of the Committee charter annually, requesting the SIB approval for proposed changes.
- Confirm annually the review of all responsibilities outlined in this charter.

Reporting Responsibilities

- Report to the SIB about the Committee's activities, issues, and related recommendations.
- Provide a written report annually to the SIB, describing the Committee's composition, responsibilities and how they were discharged, and any other information required.

DATE SECURITIES LITIGATION COMMITTEE CHARTER ADOPTED: April 27, 2018

DATE CHARTER REVISIONS ADOPTED: May 24, 2019

POLICY TITLE: SECURITIES MONITORING AND LITIGATION POLICY

General Purpose

1. The North Dakota State Investment Board (“SIB”) is a fiduciary for assets held in trust for the benefit of SIB clients, including their beneficiaries.
2. In order to carry out its fiduciary duty to prudently invest and diversify the assets of the various investment funds, the SIB invests considerable assets in global public securities markets.
3. The efficient and effective deployment of plan assets requires that in seeking returns market risks must be prudently assumed and managed. Investing in publicly-traded securities in regulated markets under accounting, disclosure and business practice laws and regulations provides general, but not perfect assurance that the information forming the basis for investments is accurate, conforms with accepted accounting practices, and is not distorted due to misfeasance, malfeasance or nonfeasance, or the timing of information disclosures by persons or entities with the ability to affect market prices of the investment securities.
4. Legal action is sometimes necessary to attempt to recover all or part of losses the funds may incur due to alleged improper action or inaction which results in the impairment of the value of the funds’ security holdings.
5. Most such actions will be prosecuted through class action litigation whether or not the SIB takes an active role as a plaintiff or a passive role as a member of a certified class of plaintiffs. Any ultimate award or settlement from a class action will be ratably allocated among legitimate claimants.
6. The SIB will generally only consider pursuing active participation in securities actions when such a role is expected to add value by enhancing the prospect for recovery, increasing the amount of recovery, assuring more efficient and effective prosecution of the case, or identifying and addressing corporate governance issues through litigation.

For purposes of this Policy, “active participation” means seeking status as lead plaintiff, co-lead plaintiff, or filing separate legal action.

Non-Active Recovery and Filing

1. SIB will require as part of its agreement with its custodial bank or other designated agent, that adequate securities class action monitoring is maintained on an ongoing basis, sufficient to assure that most of the actual awards and settlements for such cases are tracked and identified and that proof of claim forms, including supporting documentation, will be properly and timely filed.
2. SIB may engage one or more legal firms that specialize in prosecuting security class-action cases; any such engagement is subject to the special appointment

requirements of N.D.C.C. § 54-12-08. For these purposes only, such firm(s) may be granted ongoing access to security holdings information through the custodian bank or other designated agent.

3. An agreement with any law firm for non-litigation services will not commit SIB to employing said firm in the event that it seeks to represent SIB as an active participant in any securities related litigation. Such representation must be effected by a separate retainer agreement between the SIB and said firm, or another, depending on such factors as the potential monetary scope, the nature of the case and industry specialty that may be required, the allocation of current or past cases among candidate firms, the likely duration and cost of prosecuting such a case, retainer fees or contingency splits, the venue in which the case is to be filed, and other considerations.
4. The custodial bank or other designated agent will be required to provide the Retirement and Investment Office (“RIO”) with periodic reports that detail class action cases monitored, claims filed, and award or settlement distributions received. RIO will maintain these records and provide an update to the SIB or Securities Litigation Committee (Committee) with regards to accounting information on distributions received on claims filed by the custodian bank or other designated agent on our behalf.

Active Participation in Cases

1. The Executive Director will initiate active participation in securities cases only upon prior review and approval of the SIB or Committee. Before bringing any recommendations to the SIB or Committee, the Executive Director, with significant assistance from legal counsel from the Office of the Attorney General, will assess the merits and prospects for active participation by reference to the criteria and factors outlined in this section.
2. Decision Criteria and Factors:
 - a. The decision to participate in an active capacity in security litigation should be based on the totality of the circumstances. Dollar loss amounts are important, but not the sole or overriding factor to consider in making such recommendations by the Executive Director, or determinations by the SIB or Committee.
 - b. Potential losses to SIB clients must be significant in order to warrant participation as a lead plaintiff, co-lead plaintiff, or separate litigant in U.S. or Canadian cases. Generally, in cases where the potential loss does not exceed the \$5 million, the SIB will generally avoid active participation.

- c. The *prima facie* merits of the claim for loss, and the factual basis for the action, recognizing that the full discovery process will not commence until the class has been certified by the court in which such case is to be filed.
 - d. The availability of witnesses, and possible support that may be obtained from investment managers, consultants, and the custodial bank through discovery.
 - e. The potential that any defendants or insurers will be able to pay an adequate recovery to the class, without impairing the value of any current security holdings SIB may yet hold in the issuer in the portfolio.
 - f. The ability of the law firm recommending action on the part of SIB to prosecute the case effectively, in the venue where such case is likely to be filed, and the experience of the firm in managing such cases individually or in partnership with other firms.
 - g. Potential long-term benefits from corporate governance changes from pursuing litigation.
 - h. The ability of SIB to serve as a fiduciary on behalf of all class members in the case, especially in relative terms to other institutional investors that may be considering the same case.
 - i. Potential costs that may be incurred. Special consideration must be given to any case that must be filed in a non-U.S. venue under the “Morrison” criteria established by the U. S. Supreme Court in a 2010 decision, since costs of litigation and potential liabilities of unsuccessful claims may be significant.
 - j. Current workload and staffing resources required for the fulfillment of SIB’s primary member service functions, and whether participation might displace time and staff resources needed for core business functions.
3. Decision Criteria and Factors for cases filed in a non-U.S. venue: In addition to the Criteria and Factors set forth in Subsection 2, the SIB or Committee may consider the following:
 - a. The proposed funding arrangements for the action.
 - b. Evaluate the merits and risks of the case in light of the law of the jurisdiction in which the action would be brought. Generally, in cases where the potential loss does not exceed the Jurisdictional Thresholds referenced in Exhibit A, the SIB will avoid opt-in or group litigation participation.

Roles in Managing & Monitoring Litigation

1. The SIB or Committee will make the final determination of whether it is in the SIB's best interest to pursue active participation in any case and whether to engage any law firm and the terms of such engagement.
2. Decisions regarding the conduct and implementation of the SIB's or Committee's decision to participate will be the responsibility of the Executive Director, or an approved member of the management staff if he so delegates. When feasible and advisable, the Executive Director shall seek advice and direction from the SIB or Committee on strategic and legal issues that may arise in prosecuting the action on behalf of the SIB and its clients. The Executive Director shall timely report to the SIB or Committee on the progress of the litigation.
3. The Executive Director shall be responsible for management of the relationship with any portfolio monitoring law firm or organization for such purpose. Based on the need for additional coverage, the Executive Director and Committee will determine whether one or several firms are needed to fulfill the goals of this Policy and may terminate such monitoring agreements as judgment advises.
4. Any agreement for portfolio monitoring services that includes a fee or subscription cost must first be approved by the SIB or Committee before execution by the Executive Director.

Policy Review

1. The Committee and SIB shall review this policy at least every three years to ensure that it remains relevant and appropriate.

Exhibit A

Non-US Opt-In and Group Litigation Jurisdictional Thresholds

Jurisdictional Description	Threshold
Passive/very low risk jurisdictions, simple registration or claim filing (no participation in litigation required, strong anonymity, very low costs) including, but potentially not limited to: Australia, Israel, Netherlands (including Dutch Foundations), regulatory funds (e.g. Compensation Schemes in UK)	Zero
Low risk jurisdictions (no discovery, low cost) including, but potentially not limited to: Japan	\$1 million
Moderate risk jurisdictions (moderate cost, funded/insured to protect from cost shifting, some restricted discovery, not fully public) including but potentially not limited to: Germany, Austria, Belgium, Switzerland, Denmark, Spain, Finland, France, Hong Kong, Indonesia, Ireland, Italy, Korea, Luxembourg, Malaysia, Norway, New Zealand, Portugal, Sweden, and Thailand	\$5 million
High risk jurisdictions (potential in-person discovery, no anonymity, uncapped fees) including, but potentially not limited to: Taiwan, United Kingdom, Singapore, Brazil	\$10 million

Jurisdictional Thresholds are developed in consultation with legal counsel including other designated agents which are experts in global securities litigation matters.

Policy Implemented: November 20, 2015

Policy Amended: April 27, 2018 and May 24, 2019

Informational

TO: SIB Securities Litigation Committee (SLC)
FROM: Dave Hunter, Executive Director / Chief Investment Officer
DATE: August 11, 2020
SUBJECT: SLC Approved Securities Litigation Representation Firms

The Board has engaged two law firms to defend the SIB in two securities litigation cases:

- 1.) **Kasowitz Benson Torres** on General Motors; and
- 2.) **K&L Gates** on Tribune (and in WG Trading as a plaintiff).

In 2016, the Board engaged **Grant & Eisenhofer** (as a plaintiff's attorney) to recover investment losses resulting from international securities litigation involving VW and other related parties. In 2019, the Board approved the Committee's recommendation to engage Grant & Eisenhofer (as a plaintiff's attorney) to recover investment losses from international securities litigation involving Danske Bank and other related parties.

In 2018, the Board engaged **Financial Recovery Technologies** (FRT) to enhance our ability to recover investment losses in U.S. and international securities litigation cases including those involving anti-trust actions in addition to our continuing U.S. class action claims filing activity since March 1, 2018. Northern Trust, as our custodian, continues to seek U.S. class action claim filing recoveries prior to March 1, 2018 (when we transitioned from Northern Trust to FRT).

Since 2011, annual cash recoveries have varied widely ranging from a low of \$153,480 in fiscal 2014 to a high of \$692,958 in fiscal 2012, noting the annual recoveries are often materially impacted by the occurrence (or absence) of one or two major cases in any year. **Securities litigation recoveries approximated \$345,000 for the SIB in the fiscal year ended June 30, 2019 and \$644,000 in the fiscal year ended June 30, 2020.**

In 2018, the SLC met with several prominent law firms widely considered to be leading experts in the securities litigation field including: Bernstein Litowitz Berger & Grossman; Robbins Geller Rodman & Dowd; Labaton Sucharow; Kaplan Fox; and Grant & Eisenhofer.

On November 5, 2019, the Committee identified: 1) Bernstein Litowitz Berger & Grossman; 2) Grant & Eisenhofer; and 3) Labaton Sucharow to serve as our pre-approved law firms to be utilized on a case by case basis to provide expert advice when new securities litigation related cases are raised for further consideration by our global securities litigation monitoring firm, FRT.

On April 30, 2020, the SLC added Kessler, Topaz, Meltzer, Check, LLP (KTMC) as an approved securities litigation firm after a Special SLC meeting in which RIO identified KTMC as the best firm to represent our SIB client interests in an emerging securities litigation case involving Nissan Motor Co. Ltd. FRT provided valuable assistance to RIO staff and the SLC on this time sensitive matter.

Informational

TO: SIB Securities Litigation Committee

FROM: Dave Hunter, Executive Director / Chief Investment Officer

DATE: August 4, 2020

SUBJECT: K&L Gates Securities Litigation Case Updates

K&L Gates represent the NSIB in two long-running cases including **WG Trading** and Tribune.

WG Trading:

In February, 2009, the State Investment Board (SIB) was notified of legal action being taken against one of its investment advisors. The principals of WG Trading Company, the broker/dealer for the Westridge Capital Management portfolios, were charged with securities fraud for allegedly diverting investor funds for their personal use. The SIB was an investor along with numerous other public and private pension funds. Investors had been offered two options: invest directly in WG Trading Company (WGTC) by purchasing a limited partnership interest in it; or lend money to WG Trading Inc. (WGTI). WGTC was subject to SEC regulation, capital requirements, reporting and oversight, whereas WGTI was an unregulated and unaudited entity. SIB chose to invest directly in the regulated, audited WGTC.

At the time the Commodity Futures Trading Commission (CFTC) and Securities and Exchange Commission (SEC) charges were filed, the court appointed a receiver to take control of any recoverable assets. The receiver recommended the court distribute the recovered assets as follows: pool the assets of WGTC and WGTI, and distribute those assets *pro rata* to all investors. The receiver's method did not take into consideration the terms in which each investor entered into the investment (i.e. limited partnership interest versus note holder agreement), even though the majority of the WGTC assets were intact and the fraud predominantly occurred with WGTI. The SIB joined with other WGTC investors and objected to a *pro rata* distribution to all investors. The receiver and the WGTI investors opposed. The court agreed with the receiver and in April, 2011, the recovered assets were distributed to all investors in a *pro rata* distribution based on net investment balances. The SIB received a total distribution of \$63.9 million, which represented approximately 85% of its remaining cost basis with WGTC.

The SIB did not agree with the method used to distribute the assets, and along with the other WGTC limited partners appealed the District Court's ruling. It was the SIB's position that the District Court incorrectly determined the amount of the distribution; and that the audited limited partners were entitled to a greater share of the recovered assets than the unaudited note holders. In April, 2013, the District Court's original ruling was upheld by the United States Court of Appeals for the Second Circuit and the SIB received an additional \$3.1 million *pro rata* distribution, bringing the total distributions received to \$67.1 million, which represents approximately 89% of its remaining cost basis with WGTC. It should be noted that the receiver continued to pursue certain "clawback" actions and to dispose of various real and personal property held by the receiver in order to recover additional funds for eventual distributed to the investors, including the SIB. There were 17 SIB client funds impacted by this case including PERS, TFFR, Bismarck City Employee

and Police Pension Plans, Job Service, City of Fargo Employee Pension Plan, WSI, State Fire & Tornado, State Bonding, Risk Management, Risk Management Workers Compensation, Insurance Regulatory Trust Fund, Petroleum Tank Release Compensation Fund, NDAC, City of Bismarck Deferred Sick Leave, Fargo Dome Permanent Fund and Cultural Endowment Fund.

To date, the Receiver has made three distributions of funds to investors. The distributions to NDSIB are summarized below:

1. On March 21, 2011, NDSIB recovered a total of \$63,930,633.62, distributed as follows:
 - a. ND Pension Trust: \$ 19,912,957.02
 - b. ND Insurance Trust: \$ 12,294,359.53
 - c. ND Enhanced Lehman: \$ 31,723,317.07

2. On December 28, 2012, NDSIB recovered a total of \$3,137,614.23, distributed as follows:
 - a. ND Pension Trust: \$ 977,294.52
 - b. ND Insurance Trust: \$ 603,375.62
 - c. ND Enhanced Lehman: \$ 1,556,944.00

3. On October 14, 2015, NDSIB recovered a total of \$5,944,067.48, distributed as follows:
 - a. ND Pension Trust: \$ 1,851,443.74
 - b. ND Insurance Trust: \$ 1,143,091.73
 - c. ND Enhanced Lehman: \$ 2,949,532.01

On June 29, 2020, the Receiver sought Court approval for a final distribution of assets. Under the plan submitted by the Receiver, NDSIB is scheduled to receive the following additional funds:

4. Final Distribution: A total distribution of **\$2,257,404.67**, to be distributed as follows:
 - a. ND Pension Trust: \$ **703,124.72**
 - b. ND Insurance Trust: \$ **439,113.12**
 - c. ND Enhanced Lehman: \$ **1,120,146.83**

Assuming that the final distribution is made as planned, NDSIB will have recovered **all of the \$75,269,880** it invested in the Westridge entities (minus the \$30 wire-transfer fees associated with each distribution).

Mr. Robert W. Sparkes, III and Mr. John C. Blessington from K&L Gates will provide a brief verbal update of the current status of this case and/or address any questions from our SLC members.

Informational

TO: SIB Securities Litigation Committee

FROM: Dave Hunter, Executive Director / Chief Investment Officer

DATE: August 4, 2020

SUBJECT: K&L Gates Securities Litigation Case Updates

Tribune:

The NDSIB is named as a defendant arising out of **Tribune bankruptcy proceedings**, relating to securities that were purchased by external investment managers in one or more portfolios held by the SIB on behalf of its investment client funds. **K&L Gates has been retained as outside counsel, in addition to assistance received from the ND Office of Attorney General.** On July 15, 2019, in the Tribune proceeding, the Litigation Trustee filed a Notice of Appeal to the Second Circuit, appealing the various judgments of the U.S. District Court that dismissed his claims against defendants in the Action and denying leave to amend his complaint to add a constructive fraudulent transfer claim. Briefing of the legal issues before the Second Circuit is complete, and oral argument is set for August 24, 2020. **Accordingly, no liability has been recorded for this case.**

Mr. Ryan M. Tosi from K&L Gates will provide a brief verbal update of the current status of this case and/or address any questions from our SLC members.