

NORTH DAKOTA STATE INVESTMENT BOARD  
SECURITIES LITIGATION SUBCOMMITTEE  
MINUTES OF THE MAY 20, 2019, MEETING

**BOARD MEMBERS PRESENT:** Troy Seibel, Chair  
Treasurer Kelly Schmidt, Vice Chair  
Connie Flanagan, Chief Financial Officer  
David Hunter, ED/CIO  
Anders Odegaard, Attorney General's Office

**STAFF PRESENT:** Bonnie Heit, Admin Svs Suprv  
Sara Sauter, Suprv of Internal Audit

**GUESTS:** Craig D'Alessio, Financial Recovery Technologies (Audio)  
Emily Fortin, Financial Recovery Technologies

**CALL TO ORDER:**

Mr. Seibel, Chair, called the State Investment Board (SIB) Securities Litigation Committee meeting to order at 3:10 p.m. on Monday, May 20, 2019, at the Retirement and Investment Office, 3442 E Century Ave, Bismarck, ND.

**AGENDA:**

IT WAS MOVED BY TREASURER SCHMIDT AND SECONDED BY MR. HUNTER AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE MAY 20, 2019, MEETING.

AYES: TREASURER SCHMIDT, MR. SEIBEL, MR. HUNTER, MS. FLANAGAN, AND MR. ODEGAARD  
NAYS: NONE  
MOTION CARRIED

**MINUTES:**

IT WAS MOVED BY TREASURER SCHMIDT AND SECONDED BY MS. FLANAGAN AND CARRIED BY A VOICE VOTE TO ACCEPT THE MINUTES OF THE NOVEMBER 5, 2018, MEETING AS DISTRIBUTED.

AYES: MS. FLANAGAN, MR. ODEGAARD, TREASURER SCHMIDT, MR. SEIBEL, AND MR. HUNTER  
NAYS: NONE  
MOTION CARRIED

**SECURITIES LITIGATION REVIEW:**

The Committee reviewed the history of the Securities Litigation Committee, their Charter and Securities Litigation Policy.

Financial Recovery Technologies (FRT) - FRT representatives reviewed the US "Opt-Out" settlements, International "Opt-In" Actions and Jurisdictions, and Global Anti-Trust activity. FRT also reviewed recent litigation activity.

FRT recommended the following changes to the Securities Litigation Policy based on changing market conditions and observed best practices in securities litigation monitoring for "Non-U.S. Opt-In & Group Litigation Jurisdiction Thresholds" in the past year.

1. Increase the frequency of the Securities Monitoring and Litigation Policy review from every three years to annually.
2. Lower the dollar threshold in the Non-US Opt-In and Group Litigation Jurisdictions for Passive/Very Low Risk Thresholds from \$20,000 to zero.

After discussion,

**IT WAS MOVED BY MR. HUNTER AND SECONDED BY TREASURER SCHMIDT AND CARRIED BY A ROLL CALL VOTE TO CONDUCT ANNUAL REVIEWS OF THE SECURITIES MONITORING AND LITIGATION POLICY AND LOWER THE DOLLAR THRESHOLD IN THE NON-US OPT-IN AND GROUP LITIGATION JURISDICTIONS FOR PASSIVE/VERY LOW RISK THRESHOLDS FROM \$20,000 TO ZERO.**

**AYES: MR. ODEGAARD, MR. HUNTER, MS. FLANAGAN, MR. SEIBEL, AND TREASURER SCHMIDT**

**NAYS: NONE**

**MOTION CARRIED**

Ms. Fortin reviewed the Danske Bank litigation. Danske Bank laundered more than \$200 billion through its Estonian Branch between 2007 and 2015. FRT is estimating the SIB has potentially lost \$2 million dollars.

After discussion,

**IT WAS MOVED BY MR. HUNTER AND SECONDED BY MR. ODEGAARD AND CARRIED BY A ROLL CALL VOTE TO ENGAGE GRANT & EISENHOWER AND FRT TO PURSUE AN OPT IN LITIGATION POSITION ON THE DANSKE BANK CASE.**

**AYES: MR. HUNTER, MS. FLANAGAN, MR. SEIBEL, TREASURER SCHMIDT, AND MR. ODEGAARD**

**NAYS: NONE**

**MOTION CARRIED**

Ms. Fortin continued with the review of opt-in opportunities for passive/very low, low, moderate, and high risk jurisdictions as well as anti-trust cases.

Ms. Fortin notified the Committee a disbursement of \$36,473.64 was recovered as a result of their efforts in the Tesco PLSC Compensation Scheme (KPMG) on November 20, 2018.

Mortgage Related Securities Litigation - Mr. Hunter reviewed mortgage related securities litigation recoveries. As of April 30, 2019, \$622,854.81 has been recovered.

Treasurer Schmidt requested a footnote be added to clarify the information. The following footnote will be added:

"The above information was based on the best available data using our prior claims filing agent. Please note that no conclusions should be drawn from individual line items or "Amount Recovered" in relation to "Total RL" (Recognized Loss) due to different methodologies used to derive a historical estimate. The main point to be drawn is that clients of the North Dakota State Investment Board have recovered at least \$622,854 of cash proceeds from class action claims filings relating to mortgage related securities litigation actions as of April 30, 2019."

**SECURITIES LITIGATION UPDATE:**

Committee Membership - Treasurer Schmidt no longer desires to serve on the Securities Litigation Committee. New Committee members will be appointed by the SIB at their July 26, 2019, meeting.

Committee Meeting Schedule - The next Committee meetings are scheduled for August 22, 2019, and November 7, 2019. The 2020 schedule will be established at the November 7, 2019 meeting. The Committee concurred with the schedule.

Securities Litigation Firms - On November 5, 2018, the Committee identified three firms to serve as pre-approved law firms to be utilized on a case by case basis. The firms - Bernstein Litowitz Berger & Grossman, Grant & Eisenhofer, and Labaton Sucharow will represent the SIB when new securities litigation related cases are raised for further consideration by FRT.

Kasowitz Benson Torres (General Motors case) and K&L Gates (Tribune case) have been engaged by the SIB. Grant & Eisenhofer (as a plaintiff's attorney) was engaged to recover investment losses resulting from international securities litigation involving Volkswagen and other related parties.

FRT has been retained since March 1, 2018, to recover investment losses in US and international securities litigation cases to include those involving anti-trust actions in addition to US class action claims filing.

Northern Trust, the SIB custodian, continues to seek US class action claim filing recoveries prior to March 1, 2018.

Since 2011, annual cash recoveries have varied significantly ranging from a low of \$153,480 in fiscal 2014 to a high of \$692,958 in fiscal year 2012. Securities litigation recoveries were approximately \$189,000 for the fiscal year ended June 30, 2018.

Biennial Agenda - Mr. Hunter reviewed a draft biennial agenda for 2019-21. After discussion,

**IT WAS MOVED BY TREASURER SCHMIDT AND SECONDED BY MS. FLANAGAN AND CARRIED BY A ROLL CALL VOTE TO APPROVE THE BIENNIAL AGENDA FOR 2019-21.**

**AYES: TREASURER SCHMIDT, MR. SEIBEL, MR. HUNTER, MS. FLANAGAN, AND MR. ODEGAARD  
NAYS: NONE  
MOTION CARRIED**

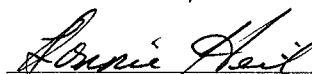
**OTHER:**

The next Securities Litigation meeting is scheduled for August 22, 2019, at the Retirement and Investment Office, 3442 East Century Avenue, Bismarck, ND.

**ADJOURNMENT:**

With no further business to come before the Committee, Mr. Seibel adjourned the meeting at 4:03 p.m.

  
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Mr. Seibel, Chair

  
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Bonnie Heit  
Recorder

