

**NORTH DAKOTA STATE INVESTMENT BOARD  
SECURITIES LITIGATION COMMITTEE  
MINUTES OF THE FEBRUARY 4, 2021, 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:** Ann Griffin, Investment Accountant  
Bonnie Heit, Suprv. Admin Svs  
Jan Murtha, Dep. Exec. Dir/CRO  
Matt Posch, Investment/Compliance Officer  
Sara Sauter, Suprv. of Internal Audit  
Darren Schulz, Dep. CIO  
Susan Walcker, Senior Financial Officer

**GUESTS:** Craig D'Alessio, Financial Recovery Technologies  
Mike Lange, Financial Recovery Technologies  
Roxana Pierce, Robbins Geller Rudman & Dowd LLP

**CALL TO ORDER:**

Mr. Seibel, Chair, called the State Investment Board (SIB) Securities Litigation Committee (SLC) regular meeting to order at 2:02 p.m. on Thursday, February 4, 2021, at the Retirement and Investment Office (RIO) (virtual host), 3442 E Century Ave, Bismarck, ND.

**AGENDA:**

**IT WAS MOVED BY COMMISSIONER SMITH AND SECONDED BY MS. FLANAGAN AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE FEBRUARY 4, 2021, MEETING.**

**AYES: COMMISSIONER SMITH, MS. FLANAGAN, MR. DEPOUNTIS, MR. HUNTER, AND MR. SEIBEL  
NAYS: NONE  
MOTION CARRIED**

**MINUTES:**

**IT WAS MOVED BY MS. FLANAGAN AND SECONDED BY MR. HUNTER AND CARRIED BY A VOICE VOTE TO ACCEPT THE MINUTES OF THE NOVEMBER 5, 2020, MEETING AS DISTRIBUTED.**

**AYES: MS. FLANAGAN, MR. DEPOUNTIS, MR. HUNTER, COMMISSIONER SMITH, AND MR. SEIBEL  
NAYS: NONE  
MOTION CARRIED**

**SLC ACTIVITIES:**

Mr. Hunter briefed the SLC on a developing international securities litigation case against Daimler AG (Daimler).

Daimler, a German multinational automotive corporation, has been sued for allegedly violating the German Securities Trading Act (WpHG) by failing to disclose the use of illegal defeat devices (software installed in its vehicles to temporarily lower nitrous oxide levels emitted during emission tests).

Discussion took place on the merits of the case which the estimated damages are approximately \$1.8 million; the legal jurisdiction is Germany; and the SIB approved litigation threshold for Germany is \$5 million.

Mr. Mike Lange, Financial Recovery Technologies (FRT), briefed the SLC on the specifics of the case.

FRT believes there is little downside risk to pursuing securities litigation in the case. There is a good chance of obtaining a 25% estimated recovery which translates into approximately \$450,000 of gross loss recovery or an estimated \$315,000 net loss recovery after up to a 30% contingent fee arrangement which will not require the approval of the ND Emergency Commission.

Based on the SLC Charter, the SLC is authorized to "make decisions on the level of participation the SIB will take in, opt-in or group litigation" cases and "approve the selection of special assistant attorneys" under the guidance and approval of the Attorney General's office. The jurisdiction risk for this case in Germany is deemed to be moderate risk for costs, discovery, and anonymity. The participation deadline is June 1, 2021, with a final date on or before December 31, 2021.

RIO recommended the SLC consider engaging Robbins Geller Rudman & Dowd LLP to Opt-In to the international group securities litigation to recover up to an estimated \$315,000 in net loss recoveries from allegedly violating German securities trading laws by Daimler AG.

**IT WAS MOVED BY MS. FLANAGAN AND SECONDED BY MR. HUNTER AND CARRIED BY A ROLL CALL VOTE TO ACCEPT RIO'S RECOMMENDATION AND ENGAGE ROBBINS GELLER RUDMAN & DOWD LLP TO OPT-IN TO THE INTERNATIONAL GROUP SECURITIES LITIGATION TO RECOVER UP TO AN ESTIMATED \$315,000 IN NET LOSS RECOVERIES FROM ALLEGEDLY VIOLATING GERMAN SECURITIES TRADING LAWS BY DAIMLER AG.**

**AYES: MR. DEPONTIS, MR. HUNTER, COMMISSIONER SMITH, MS. FLANAGAN, AND MR. SEIBEL;  
NAYS: NONE  
MOTION CARRIED**


**OTHER:**

The next Securities Litigation meeting is scheduled for Thursday, May 6, 2021, at 2:00 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 2:19 p.m.

  
\_\_\_\_\_  
Mr. Seibel, Chair

  
\_\_\_\_\_  
Bonnie Heit  
Recorder