

**NORTH DAKOTA STATE INVESTMENT BOARD
SECURITIES LITIGATION COMMITTEE
MINUTES OF THE SEPTEMBER 11, 2023, MEETING**

MEMBERS PRESENT: Joseph Heringer, Commissioner of Univ. & School Lands, Chair
Mona Tedford-Rindy, PERS Board
Art Thompson, Director of WSI

STAFF PRESENT: Scott Anderson, Chief Investment Officer
Jan Murtha, Executive Director
Emmalee Riegler, Contracts/Records Admin.
Ryan Skor, CFO/COO

GUESTS: Nate Bear, DiCello Levitt
Emily Christiansen, Kessler Topaz Meltzer & Check LLP
Dean DePountis, Attorney General's Office
Jon Davenport, Grant & Eisenhofer
Roxana Pierce, DiCello Levitt

CALL TO ORDER:

Commissioner Heringer called the State Investment Board (SIB) Securities Litigation Committee (SLC) special meeting to order at 10:07 a.m. on Monday, September 11, 2023. The meeting was held virtually.

AGENDA:

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY COMMISSIONER HERINGER AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE SEPTEMBER 11, 2023, MEETING.

**AYES: MR. THOMPSON, MS. TEDFORD-RINDY AND COMMISSIONER HERINGER
NAYS: NONE
MOTION CARRIED**

MINUTES:

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY COMMISSIONER HERINGER AND CARRIED BY A ROLL CALL VOTE TO ACCEPT THE MINUTES OF THE JULY 7, 2023, MEETING AS DISTRIBUTED.

**AYES: MS. TEDFORD-RINDY, MR. THOMPSON AND COMMISSIONER HERINGER
NAYS: NONE
MOTION CARRIED**

ELECTION OF CHAIR:

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY MS. TEDFORD-RINDY AND CARRIED BY A ROLL CALL VOTE TO ELECT COMMISSIONER HERINGER AS THE CHAIR OF THE SLC FOR THE 2023-2024 TERM.

AYES: MR. THOMPSON, MS. TEDFORD-RINDY AND COMMISSIONER HERINGER

NAYS: NONE

MOTION CARRIED

GOVERNANCE:

Securities Litigation Committee Charter Review:

Ms. Murtha provided an overview of the SLC Charter highlighting the committee's role, authority, membership, term limits, chair role, meetings, and responsibility. Ms. Murtha also reviewed the changes made to the membership of the committee in the prior year.

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY MS. TEDFORD-RINDY AND CARRIED BY A ROLL CALL VOTE TO APPROVE THE ANNUAL COMMITTEE REVIEW OF THE CHARTER.

AYES: MS. TEDFORD-RINDY, MR. THOMPSON AND COMMISSIONER HERINGER

NAYS: NONE

MOTION CARRIED

Securities Litigation Legal Services Pool RFP:

Ms. Murtha provided background information on the RFP as discussed at previous SLC meetings in March and June of 2023. Staff identified an opportunity to develop a better process for attorney selection in securities litigation matters. Several investment programs use the pool model to establish a formal process for identifying and selecting securities litigation firms for representation in any given matter. Additionally, many securities litigation firms provide free monitoring services. Currently a vendor, FRT, is retained to monitor, file claims, and recover money on behalf of SIB as reported annually.

The proposed RFP is to invite securities litigation firms to present to be a part of a pool of three firms. The purpose of the pool is to provide monitoring services, not filing services, alongside FRT and bring forward any matters recommending representation in a securities litigation action. This would formalize the firm selection process. There is a relatively small number of firms that provide these services, so staff feels a pool of three is manageable for SIB's fund size. Creation of the pool will not preclude the SIB from selecting firms outside of the pool.

AAG DePountis provided example RFPs from other investment programs who have created this type of structure. Staff, in coordination with the State Procurement Office and AAG DePountis, created the RFP utilizing the best terms from the example RFP's and incorporating them into the State's procurement framework. The RFP Schedule calls for staff to complete the initial scoring and then request finalists present to the SLC at the December meeting.

Staff expects there will be no initial cost associated with the creation of the pool. RIO will continue to retain FRT while the pool is established and will then identify where any overlap in monitoring services may occur.

Ms. Murtha relayed that since she is familiar with the individuals who do this type of litigation she will not participate as an initial scorer. AAG DePountis and other staff members will serve as initial scorers.

Committee discussion followed.

IT WAS MOVED BY MS. TEDFORD-RINDY AND SECONDED BY MR. THOMPSON AND CARRIED BY A ROLL CALL VOTE TO APPROVE THE RFP DRAFT AND TIMELINE WITH ANY MINOR ADMINISTRATIVE EDITS AS NEEDED.

AYES: MR. THOMPSON, MS. TEDFORD-RINDY AND COMMISSIONER HERINGER

**NAYS: NONE
MOTION CARRIED**

SECURITIES LITIGATION CASE UPDATE:

DiCello Levitt (Daimler):

IT WAS MOVED BY MS. TEDFORD-RINDY AND SECONDED BY MR. THOMPSON AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION FOR CONFIDENTIAL AND PRIVIEGED ATTORNEY CLIENT CONSULTATION PURSUANT TO NDCC 44-04-17.1(4), NDCC 44-04-19.1, AND NDCC 44-04-19.2.

**AYES: MS. TEDFORD-RINDY, MR. THOMPSON AND COMMISSIONER HERINGER
NAYS: NONE
MOTION CARRIED**

The executive session started at 10:35 a.m. and ended at 10:44 a.m. and was attended by Committee members, staff, Mr. Bear, and Ms. Pierce.

Grant & Eisenhofer (Volkswagen and Danske Bank):

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY MS. TEDFORD-RINDY AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION FOR CONFIDENTIAL AND PRIVIEGED ATTORNEY CLIENT CONSULTATION PURSUANT TO NDCC 44-04-17.1(4), NDCC 44-04-19.1, AND NDCC 44-04-19.2.

**AYES: MR. THOMPSON, MS. TEDFORD-RINDY AND COMMISSIONER HERINGER
NAYS: NONE
MOTION CARRIED**

The executive session started at 10:45 a.m. and ended at 10:55 a.m. and was attended by Committee members, staff, and Mr. Davenport.

PG&E Action & Philips Action:

IT WAS MOVED BY MR. THOMPSON AND SECONDED BY MS. TEDFORD-RINDY AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION FOR CONFIDENTIAL AND PRIVIEGED ATTORNEY CLIENT CONSULTATION PURSUANT TO NDCC 44-04-17.1(4), NDCC 44-04-19.1, AND NDCC 44-04-19.2.

**AYES: MS. TEDFORD-RINDY, MR. THOMPSON AND COMMISSIONER HERINGER
NAYS: NONE
MOTION CARRIED**

The executive session started at 10:57 a.m. and ended at 11:01 a.m. and was attended by Committee members, staff, and Mr. DePountis.

Kessler Topaz Meltzer & Check (Nissan):

IT WAS MOVED BY MS. TEDFORD-RINDY AND SECONDED BY MR. THOMPSON AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION FOR CONFIDENTIAL AND

PRIVIEGED ATTORNEY CLIENT CONSULTATION PURSUANT TO NDCC 44-04-17.1(4), NDCC 44-04-19.1, AND NDCC 44-04-19.2.

AYES: MR. THOMPSON, MS. TEDFORD-RINDY AND COMMISSIONER HERINGER

NAYS: NONE

MOTION CARRIED

The executive session started at 11:03 a.m. and ended at 11:10 a.m. and was attended by Committee members, staff, and Ms. Christianson.

Securities Litigation Monitoring Report:

Mr. Skor reviewed the most recent status report from the monitoring firm FRT. The Committee was provided with a Status Report for the period from August 1, 2023, through August 31, 2023. The report summarizes security litigation activities including newly filed claims, status of previously filed claims, and a summary of the total net recoveries for the period. Committee discussion followed.

Upcoming Meetings:

Staff recommended and the committee agreed to adjust the December 5 meeting time to 9:00 a.m. – 12:00 p.m.

ADJOURNMENT:

With no further business to come before the SLC, Commissioner Heringer adjourned the meeting at 11:18 a.m.

Prepared by,

Emmalee Riegler
Assistant to the Board