

**MINUTES OF THE REGULAR MEETING OF  
SOUTHFIELD FIRE & POLICE RETIREMENT SYSTEM BOARD**

**March 11, 2020**

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The Board convened in Assessing Department Conference Room at 11:30 a.m. with President Fisher presiding. The Meeting was started at 11:40 a.m.

**PRESENT:** John Fisher, Brent Wilson, Audrey Harvey, Irv Lowenberg

**ABSENT:** Duane Garth

**ALSO**

**PRESENT:** Michael VanOverbeke, Legal Counsel/VMT; Brian Green, Investment Consultants/AndCo; Megan Battersby, Retirement Program Director/SFPRS; Patrick McDonough, Kevin Ryan and Patrick McMenamin/QMA (via phone)

**R.B. 20-029** **MOTION** by Harvey, supported by Wilson, to approve Minutes of the Regular Meeting of Southfield Fire & Police Retirement System Board on February 11, 2020. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-030** **MOTION** by Lowenberg, supported by Harvey, to acknowledge receipt of Cash & Asset Statement as of January 31, 2020 in the amount of \$195,679,966.23. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-031** **MOTION** by Harvey supported by Lowenberg, to approve payment of invoices as follows: Invoice from VanOverbeke, Michaud & Timmony for legal services rendered for the period October 1, 2019 – December 31, 2019 in the amount of \$3,512.60; Invoice from Chase for credit charges for the period 02/03/20 – 03/02/20 in the amount of \$416.05; Invoice from Crain’s Detroit Business for 1-year subscription renewal in the amount of \$59.00. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-032** **MOTION** by Fisher, supported by Wilson, to acknowledge receipt of Informational Items including YTD budget, FOIA response dated February 24, 2020, Tortoise memo invoice, MAPERS Spring Conference information, and correspondence received during the period February 11, 2020 – March 10, 2020. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-033** **MOTION** by Wilson, supported by Fisher, to acknowledge receipt of and approve DROP Applications from N. Cazan, C. Karinen, K. Richardson. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-034** **MOTION** by Fisher, supported by Wilson, to acknowledge receipt of Retirement Application from Samuel Biggens, III effective March 23, 2020, and approve said application subject to verification of credited service by City Human Resources Department noting that retirement will not be effective until satisfactory City verification is received, and direct that Mr. Biggens be notified that retirement will not be effective until satisfactory verification from the City is received. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-035** MOTION by Wilson, supported by Fisher, to approve Surviving Spouse benefits to R. Dostie, surviving spouse of T. Dostie. MOTION CARRIED UNANIMOUSLY

**R.B. 20-036** MOTION by Fisher, supported by Wilson, to acknowledge receipt of and approve DROP Distribution Elections from K. Rochon, P. Simerly. MOTION CARRIED UNANIMOUSLY

**R.B. 20-037** MOTION by Harvey supported by Wilson, to approve payment of invoice from AndCo for investment consulting services for the period January 1, 2020 through March 31, 2020 in the amount of \$25,500.00. MOTION CARRIED UNANIMOUSLY

**R.B. 20-038** MOTION by Harvey supported by Lowenberg, to approve payment of expense reports from M. Battersby, J. Fisher, D. Garth, I. Lowenberg. MOTION CARRIED UNANIMOUSLY

Legal Counsel distributed a draft Securities Litigation Policy. He provided background on why the Retirement System should have a policy and indicated that there are currently six firms that have access to Retirement System data.

**R.B. 20-039** MOTION by Fisher, supported by Lowenberg, to adopt Securities Litigation Policy as follows:

## **Securities Litigation Policy**

**Adopted: March 11, 2020**

### **PURPOSE**

The purpose of this Securities Litigation Policy is to establish procedures and guidelines for fulfilling the Board of Trustees' fiduciary duty through monitoring of the City of Southfield Fire and Police Retirement System's (the "Retirement System") portfolio for potentially actionable losses to protect the Retirement System's interest and maximize any recoveries available from such actionable losses.

### **BACKGROUND**

Certain of such assets held by the Retirement System are from time to time subject to potential claims by investors seeking compensation for fraud, mismanagement, breach of fiduciary duty, and the like, such actions may be in the form of deal cases, derivative cases, or direct actions, which are generally referred to as "securities litigation claims."

### **KEY STATUTORY PROVISIONS**

**Securities Act of 1933.** The Securities Act of 1933 has two fundamental objectives: (1) require that investors receive financial and other significant information concerning securities being offered for public sale; and, (2) prohibit deceit, misrepresentations, and other fraud in the sale of securities. A primary means of accomplishing these goals is the disclosure of important financial information through the registration of securities.

**Securities Exchange Act of 1934.** The 1934 Act both created the Securities Exchange Commission (“SEC”) and empowered it with broad authority over all aspects of the securities industry, including the power to regulate brokerage firms, transfer agents, and clearing agencies, and to oversee the nation's securities self-regulatory organizations (SROs). The Act also identifies and prohibits certain types of conduct in the markets and provides the SEC with disciplinary powers over regulated entities and the people associated with them. Under this Act, the SEC requires periodic reporting in the form of quarterly, annual, and other periodic reports, or 10-Q’s, 10-K’s, and 8-K’s, respectively, of information by companies with publicly traded securities. Section 10(b) of the 1934 Act (particularly Rule 10b-5) explicitly prohibits any party from specifically employing “in connection with the purchase or sale of any security . . . any manipulative or deceptive device.”

**Investment Company Act of 1940.** This Act regulates the organization of companies (including mutual funds) that invest and trade in securities and whose own securities are offered to the investing public. In short, the Act works to minimize conflicts of interest that arise as part these trading companies’ complex operations. To do so, it requires investment companies to disclose their financial condition and investment policies to investors both when the stock is first sold, and thereafter on a regular basis. They must also disclose their investment objective, company structure, and operating plans.

**Investment Advisers Act of 1940.** The Investment Advisers Act regulates the firms and/or individual practitioners compensated for advising others about securities investments. Such investment advisers must register with the SEC and conform to regulations designed to protect investors.

**Private Securities Litigation Reform Act of 1995.** The Private Securities Litigation Reform Act of 1995 (“PSLRA”) was enacted to encourage institutional investors, such as the Retirement System, to pursue valid securities litigation claims against the management of such companies. The PSLRA requires federal courts to appoint one or more members of the putative class to serve as lead plaintiff(s) for the duration of the case. While any class member can petition the court to be lead plaintiff, the PSLRA provides guidance for the court to appoint as lead plaintiff the member deemed to be the most capable of adequately representing the interests of all class members. While not the sole requirement, the PSLRA also directs the court to assume that the most adequate member (or lead plaintiff) has the largest financial interest in the relief sought in the case.

**Sarbanes-Oxley Act of 2002.** Adopted in 2002, the Public Accounting Reform and Investor Protection Act, commonly known as the Sarbanes-Oxley Act, sets forth a number of sweeping reforms designed to enhance corporate responsibility, greatly expand required financial disclosures, and combat corporate and accounting fraud. The Act also created the Public Company Accounting Oversight Board (“PCAOB”), a private organization (operating under the SEC’s oversight) with the power to register, set audit standards for, and inspect and conduct disciplinary proceedings against public accounting firms that audit the financials of registered companies. Section 408 of the Act also requires the SEC to review periodic filings by public companies at least once every three years.

**Dodd-Frank Act of 2010.** Adopted in 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act provided for significant changes to the structure of federal financial regulation and new substantive requirements that apply to a broad range of market participants, including public companies that are not financial institutions. The Act includes corporate governance and executive compensation reforms, new registration requirements for hedge fund and private equity fund advisers, heightened regulation of over-the-counter derivatives and asset-backed securities. The Act also mandates significant changes to the

authority of the Federal Reserve and the Securities and Exchange Commission as well as enhanced oversight and regulation of banks and non-bank financial institutions.

## **OBJECTIVES**

- 1) From time to time, the Retirement System may suffer losses caused by alleged violations of federal and state securities laws relating to fraud, mismanagement, disclosure violations, and/or breaches of fiduciary and other duties. In such instances, the Board of Trustees and its designated representatives need to be able to make a determination of its appropriate level of participation and/or action. This Policy shall assist in such determination and provide authority to designated Board representatives to act on its behalf.
- 2) The Retirement System, as a public pension plan, has a duty to act diligently to monitor securities matters in which the system has an interest and recover damages through participation in securities litigation matters and filing required proofs of claim as may be required from time to time.
- 3) This Policy provides General Counsel (and the Board Chairperson when appropriate) with direction for monitoring securities litigation and making recommendations for the Retirement System's participation in litigation.

## **GUIDELINES FOR POTENTIAL LITIGATION**

### **A. Identification of Potential Claims**

- 1) General Counsel, in consultation with Securities Litigation Monitoring Counsel, shall be responsible for monitoring the past and present securities held by the Retirement System in order to:
  - i) Identify those cases that potentially involve Retirement System's assets;
  - ii) Assess the Retirement System's potential losses where such cases appear meritorious; and
  - iii) Evaluate the potential value to the Retirement System's taking of an active role in the litigation.
- 2) General Counsel may utilize the services of certain law firms specializing in securities litigation to monitor the Retirement System's investment portfolios and trading records.
- 3) The Board shall be provided periodic reports regarding the results of the monitoring efforts.

### **B. Pursuing Securities Claims or Seeking Lead Plaintiff Status**

- 1) A recommendation by General Counsel to consider active participation should include an analysis detailing the strong factual and legal basis for pursuing active participation. The decision to seek active participation should be based on the merits of the totality of the circumstances, not simply the satisfaction of individual criteria.
- 2) Items to be taken into consideration by General Counsel, the Board Chair and/ or the Board to determine if the Retirement System's involvement in the litigation is appropriate include, but are not limited to:
  - a. the viability of the case;
  - b. whether the Retirement System's involvement is likely to improve the outcome of the litigation;
  - c. whether there are sources of recovery available to satisfy a judgment or settlement;
  - d. whether the Board is eligible for lead plaintiff status;

- e. whether there is a possibility of participating as co-lead plaintiff;
- f. the Retirement System's losses with respect to the security in question;
- g. the responsible investment manager's evaluation of the business merits of the claim;
- h. the potential impact of the litigation on the Board's investment in the particular security and the portfolio as a whole;
- i. the impact of the alleged violations on the securities markets and Board Governance;
- j. whether there are claims against auditors or other third parties that are not being pursued;
- k. whether the Retirement System the best fund to represent the class for any other reason other than monetary loss, such as lending credibility to a less obvious claim;
- l. what are the potential recoverable damages;
- m. was there egregious activity within the company such that a personal recovery from the defendants appears to be the best way of preventing similar corporate behavior or wrong-doing;
- n. whether there are other corporate governance changes that could be considered to address causes of the fraud; and
- o. does the Retirement System have the internal resources necessary to be an active participant in the case.

**C. Non-Active Participation**

- 1) Where a determination is made not to recommend active participation, the Board's Custodial Bank, shall continue to monitor the matter to insure the Retirement System participates in any settlements and appropriate paperwork is filed to establish such status.
- 2) Nothing in this policy shall relieve the Custodial Bank of the primary responsibility to monitor all class actions and complete the necessary paperwork to participate in those in which Retirement System has a claim.

**ROLE OF THE PARTIES – Board, Chairperson, Custodian, General Counsel and Securities Counsel**

The Board's General Counsel is hereby authorized to direct the Board's custodian, investment consultant, and investment managers to provide access to the Retirement System's trading records, including access to any computer database, to VanOverbeke, Michaud & Timmony, P.C., or such other law firms as General Counsel or the Board of Trustees shall designate in writing, so that the investment portfolios of the Retirement System may be regularly monitored for investments upon which securities litigation claims may be or have been brought. The Board of Trustees, through its General counsel, shall determine when it is appropriate to become actively involved in securities litigation, including seeking lead plaintiff status.

The Board of Trustees may retain special securities monitoring law firms specializing in identifying and analyzing potential and existing securities litigation cases and who will reports its findings to the Board of Trustees on a regular and timely basis. Any special monitoring law firm should also advise the Board of Trustees of any actions that appear to have merit and for which the Retirement System has sustained a significant loss.

The Board's securities monitoring firms and General Counsel shall provide periodic reports to the Board of Trustees regarding the results of its monitoring, and shall seek authorization to take action on behalf of

the Retirement System for any and all securities litigation claims which the Board of Trustees deems to be valid and which a loss has been deemed significant.

In the event that a deadline imposed by the PSLRA (or other applicable law or Court Rule) will pass before the Board's next regularly scheduled meeting, then the Board's General Counsel, with the consent of the Board's Chairperson, shall be authorized to take such appropriate action on behalf of the Retirement System, including pursuit of lead plaintiff status and shall report to the Board all such activity at the next regularly scheduled meeting.

The Board of Trustees may retain one or more private law firms ("Securities Counsel") with demonstrated experience in prosecuting securities actions to advise and/or represent the Retirement System in securities actions. All retainer agreements should be negotiated by the Board's General Counsel and submitted for approval, in advance, to the Board of Trustees at a regularly scheduled meeting or, where immediate approval is necessary, at a special meeting. However, where it is determined that immediate approval is required in order to preserve the Retirement System's rights or interests by retaining Securities Counsel, and the matter cannot be timely presented for approval at a regular or special meeting, or where a quorum cannot be reached, the Chairperson is hereby authorized to make a decision.

In such a case, the Board Chairperson shall instruct General Counsel to concurrently notify the Board and to provide a summary of the action at the next Board of Trustees meeting. When time is of the essence, the Board of Trustees, through its Chairperson, must be able to prudently evaluate whether it should become actively involved in securities litigation, and to pursue lead plaintiff status if appropriate.

### **FEE STRUCTURE**

Any and all fees or expenses incurred in reviewing the investments of the Retirement System and/or pursuing lead plaintiff status and/or litigating or settling claims in which the Retirement System is named as a lead plaintiff or part of a lead plaintiff group, shall be contingent upon and netted against any cash awards resulting from a verdict or settlement agreement, and that *no costs or expenses incurred* shall be borne by the Retirement System.

### **ROLE OF CUSTODIAL BANK**

The Board of Trustees hereby authorizes its custodial bank to file all proofs of claims, including the necessary supporting documents and information, in every securities class action pending in the United States in which the Retirement System has an interest. The custodial bank should identify and review all class action recoveries, provide timely notice of such recoveries with sufficient time to allow the Retirement System to opt out, file complete and accurate proofs of claim forms in a timely fashion on the Retirement System's behalf, provide quarterly reports regarding these efforts, and provide quarterly reports identifying all securities litigations proceeds recovered by the Retirement System.

### **EFFECTIVE DATE**

This policy shall take effect immediately following its adoption by the Board of Trustees.



## **HISTORY**

The Board of Trustees adopted its original Securities Litigation Policy on November 8, 2004. The policy was amended and restated in its entirety as provided herein; and adopted by the Board on March 11, 2020.

### **MOTION CARRIED UNANIMOUSLY**

Retirement Program Director review was tabled until next month.

Retirement Program Director gave a final update on the Police Representative election process. No written objection was received, therefore, John Fisher has been re-elected to a four-year term from April 1, 2020 through March 31, 2024.

Retirement Program Director informed the Board that there had been some concerns about the integrity of payroll data received from the City and uploaded into the data management system but that all doubts have since been resolved. She requested a fee quote from GRS to add reports that would provide total pay in various forms but felt the high cost did not warrant the addition of the reports since there were no longer concerns. No action was taken.

Patrick McDonough, Kevin Ryan, and Patrick McMenamin of QMA attended via phone and provided an update on plan investments in QMA. Items covered included past performance, current portfolio positioning, and extreme market volatility.

Market Update as of February 29, 2020 was reviewed. Equities were down across the Board for the month and there is currently great daily instability. A rebalancing plan was discussed to cover liquidity needs for May through July.

**R.B. 20-040** **MOTION** by Wilson, supported by Harvey, to approve \$2.5 million redemption from Nantucket on the next available redemption date to be transferred to Cash to cover future liquidity needs. **MOTION CARRIED UNANIMOUSLY**

**R.B. 20-041** **MOTION** by Lowenberg, supported by Wilson, to approve transfer of \$4.4 million from Loomis Intermediate Duration Fixed Income Fund as follows: \$1 million to LSIA 30/70 Fund, \$1.5 million to LSIA Dividend Aristocrats Fund, \$1.5 million to LSIA Low Vol Fund, and \$400,000 to QMA; and approve transfer of \$600,000 from Tortoise to Reinhart. **MOTION CARRIED UNANIMOUSLY**

There being no further business to come before the Board, the meeting was adjourned at 1:51 p.m.

Prepared by Megan Battersby, Retirement Program Director

Approved by Board Motion on April 7, 2020