

# **New Mexico State Investment Office**

## **Presentation to**

## **Investments Oversight Committee**

## **Legal Issues Update**

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By

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&

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## Litigation Summary 2006-2009 - for cases finalized

- **Class Action Plaintiff Participation** – Recovered \$9,675,019.65 to SIC
- **Class Action Lead Plaintiff** – \$303,870,000.00 Recovered to Class
- **Bordertown** – Recovery of \$304,717.00 to SIC
- **Region III Housing Authority Inc.** - \$932,529.12 plus other assets
- **Settled Breach of Contract, Breach of Fiduciary Duty Claim** – Recovered \$75,000,000.00 to SIC
- **Placement Fees** - \$144,000+
- **Total in excess of \$100MM**

## On-going Litigation

PARTIES	NATURE OF SUIT	STATUS
St. Paul's Travelers II (SIC Lead Plaintiff)	Securities law violations, fraud, misrepresentation, class action	Settlement Reached, Disbursement of Funds imminent
Healthsouth (SIC Lead Plaintiff)	Securities law violations, fraud, misrepresentation, class action	Settlement Reached, Disbursement of Funds imminent
Well Care (NM Lead Plaintiff)	Securities law violations, fraud, misrepresentation, class action	Settlement Reached, Disbursement of Funds imminent
Capital Region III, LLC (SIC Defendant)	SIC prohibited RIII from selling a large tract of land to an investor. SIC now being sued.	Re-filed. SIC will be seeking coverage by RMD. Currently SIC paying for legal costs.
SIC v. Smiley Gallegos	Unjust Enrichment; Securities law violations; Violations of NM Securities Act; Misrepresentation	Discovery process ongoing
State of NM v. Gallegos, et al. (2 cases – criminal matters)	Criminal Matter	SIO GC witness, Subpoenaed to be interviewed by Defense Counsel, Subpoenaed for documents

## On-going Litigation

PARTIES	NATURE OF SUIT	STATUS
Foy v. SIC (SIC Defendant)	Alleged violation of IPRA	Risk providing coverage, SIC has provided 76K pages & is providing additional documents
SIC v. Countrywide, et al.	Securities law violations, misrepresentation, related claims	Discovery process ongoing, Motions for Summary Judgment received, Trial late 2010
Austin Capital (SIC class member)	Securities law violations, misrepresentation other claims – Madoff losses	AG on behalf of SIC joining class action.
SIC v. CBA Invst Holdings, et al	Fraudulent transfer, Breach of contract	Filed in March in Santa Fe District Court

## Investigations/IPRAs

DESCRIPTION	SUBJECT MATTER	STATUS
US DOJ Subpoenas & Info Requests	Placement Fees	SIC completed its response - SIC continues to assist
SEC Subpoenas & Info Requests	Placement Fees	SIC completed its response – SIC continues to assist
SEC Info Request to Former Council Members	Placement Fees	Individual members are responsible for their response.



24 Active Public Information Requests. 28 Processed since 2009.  
Many seeking thousands, some seeking millions of pages of documents

## Potential Litigation/Recovery

PARTIES	NATURE OF SUIT	STATUS
HFOF Manager 1	Securities law violations, breach of fiduciary duty, breach of standard of care	Evaluating claims and coordinating with AG
HFOF Manager 2	Securities law violations, breach of fiduciary duty, breach of standard of care – Madoff issues	Evaluating claims and coordinating with AG
Credit Rating Agencies	Securities law violations, various claims	Evaluating claims
Placement Agents, Managers, Aldus, & others	Various potential claims	Selection of law firm – Day Pitney LLP. Contingency Fee Contract. Transitioning from Paul Hastings to Day Pitney.