

**South Carolina Retirement System Investment Commission
Meeting Minutes**

March 28, 2013

**15th Floor Conference Room
1201 Main Street
Columbia, South Carolina 29201**

Commissioners Present:

Mr. Reynolds Williams, Chairman
Mr. Edward Giobbe, Vice Chairman
State Treasurer Curtis M. Loftis, Jr.
Mr. Allen Gillespie (via telephone)
Mr. James Powers (via telephone)
Dr. Travis Pritchett
Mr. David Avant

Others present for all or a portion of the meeting on Thursday, March 28, 2013:

Betsy Burn, Andrew Chernick, Harris Chewing, Louis Darmstadter, Dori Ditty, Robert Feinstein, Brenda Gadson, Hershel Harper, Monica Houston, Adam Jordan, David Klauka, James Manning, Bryan Moore, Jared O'Connor, Darry Oliver, Nancy Shealy, Lorrie Smith, Danny Varat, and Brian Wheeler from the South Carolina Retirement System Investment Commission; Bill Leidinger, Bill Condon and Brian DeRoy, from the State Treasurer's Office; Kara Brurok and Paul Patrick from the South Carolina House Ways and Means Committee; Tammy Nichols and Faith Wright from the Public Employee Benefit Authority, and Wayne Pruitt from the State Retirees Association.

I. CALL TO ORDER AND CONSENT AGENDA

Chairman Reynolds Williams called the emergency meeting of the South Carolina Retirement System Investment Commission ("Commission") to order at 1:45 p.m. Chairman Williams referred to the proposed meeting agenda and asked for a motion to approve. Mr. Edward Giobbe made a motion, which was seconded, and passed unanimously, to approve the agenda as presented.

II. CHAIRMAN'S REPORT

Chairman Williams stated that the emergency Commission meeting had been called to discuss and determine a reasonable and practical legal strategy for handling what appears to be an imminent threat to one of the Commission's pending investments.

Chairman Williams stated that an investment in Warburg Pincus Private Equity Fund XI ("Warburg" or the "Investment") was approved by the Commission on November 8, 2012; the 30-day review period and an extension period had expired, and noted that the transaction documents had been signed. Chairman Williams stated that March 28, 2013 was the scheduled closing for the Warburg investment. Chairman Williams asked Mr. Darry Oliver, Chief Operating Officer, to provide further details.

Mr. Oliver stated that based on his review of the Commission's investment process, it appeared that Staff had followed all currently approved procedures and processes to review, evaluate, recommend, and approve the Warburg investment.

Mr. Oliver provided a chronological timeline of events, including the following:

- October 31, 2012 - the Internal Investment Committee's Due Diligence Summary and Hewitt EnnisKnupp's, Inc. recommendation for investment in Warburg was posted on the Commissioners' extranet.
- November 5, 2012 - Mr. Andrew Chernick, Director of Audit and Compliance, signed off that the due diligence of Warburg was completed.
- November 6, 2012 - the Sourcing and Conflict Disclosure Forms for Warburg were posted on the Commissioners' extranet.
- November 8, 2012 - Mr. Dave Klauka, Managing Director, presented Staff's recommendation to invest in Warburg. It was noted that Hewitt EnnisKnupp also supported the investment in Warburg. It was also noted that at the November 8, 2012, meeting, Dr. Pritchett made motion to adopt the recommendations of the Internal Investment Committee to authorize an investment not to exceed \$50 million in the Investment; authorize the Chairman or his designee to negotiate and execute any necessary documents to implement the Investment as approved by the Commission (1) upon approval for documented legal sufficiency by Legal Counsel, and (2) upon the expiration of the 30-day review period by the Commissioners as adopted by the Commission on July 19, 2012; and authorize the Chairman and/or the CIO or their designee(s) to thereafter authorize the custodian of funds to transfer such funds as are necessary to meet the Retirement System trust funds' obligations with regard to the investment. Mr. James Powers seconded the motion, which was approved unanimously.
- January 30, 2013 - Ms. Dori Ditty, Legal and Policy Counsel, emailed the standard 30-Day Review Commencement to Commissioners, and posted the following documents to the secure portal: 1) the Side Letter; 2) Limited Partnership Agreement; 3) Private Placement Memorandum ("PPM"); 4) three Supplements to the PPM; 5) the Investor Questionnaire and Representations; 6) the Investment Summary Memo; 7) a list of contact information for service providers; 8) the SOC-1 Report with the Independent Auditor's Report; and 9) examples of a Cash Distribution Notice, Security Distribution Notice, and Capital Call Notice.
- January 30, 2013 - Ms. Ditty emailed Mr. Loftis the standard letter noting the posting of the documents, and his special informational requests per his May 2012 request.
- February 5, 2013 - Ms. Brenda Gadson, Operations Officer, emailed the request to the State Treasurer's Office ("STO") to open an account for Warburg.
- February 5, 2013 - Mr. Loftis forwarded Ms. Ditty's Jan. 30, 2013 email to the Attorney General and the Budget and Control Board, indicating he wanted to receive printed documents.

- February 20, 2013 - Ms. Gadson, contacted the STO regarding the opening of the account for Warburg. The STO reported that Mr. Loftis had the form that needed to be signed.
- February 28, 2013 – The Commission held a regularly scheduled meeting on this date. During this meeting, the Commission agreed to deliver paper documents to Mr. Loftis and provided an additional two weeks for Mr. Loftis to review the documents. Mr. Loftis did not state that this extension was insufficient.
- March 1, 2013 - Ms. Betsy Burn, Senior Legal Counsel, sent paper copies of the requested documents to Mr. Loftis per the Commission’s instructions.
- March 4, 2013 - Pension and Investments published an article stating that “Mr. Loftis said in an interview that he was receiving a hard copy of the Warburg Pincus contract, and will transfer assets for the capital call.”
- March 14, 2013 - Mr. Loftis verbally confirmed to Ms. Ditty that since he had received the paper documents, he had no issues or concerns related to the funding of Warburg, and he would send an email to that effect the next day. Ms. Ditty sent an email to Mr. Oliver indicating same, in response to Mr. Oliver’s inquiry to Ms. Ditty on the same day.
- March 15, 2013 - Mr. Loftis emailed Ms. Ditty requesting information relating to Warburg’s custodian. Ms. Ditty emailed the Service Organizational Control Report (“SOC 1 Report”), a list of key contacts for Warburg’s service providers, and the RSIC Summary Memo, noting the pages related to the custodian for Mr. Loftis’ convenience, and noting the Side Letter provision providing STO staff access to information. Ms. Ditty also noted that these documents were previously provided on January 30, 2013.
- March 15, 2013 - Mr. Mike McDermott (STO) emailed Mr. Klauka asking him to send Mr. Loftis an email, and stated that Mr. Loftis does not want to hold up the process, but he has outstanding questions concerning custody.
- March 16, 2013 - Mr. Loftis emailed Ms. Ditty asking about the document of legal sufficiency. Ms. Ditty responded that legal sufficiency was provided in a January 30, 2013 email, and offered to provide additional information if requested.
- March 17, 2013 - Mr. Loftis emailed Ms. Ditty. He stated he did not believe that the January 30, 2013 email was sufficient and that the custodian institution was not named, and expressed concerns that the custodial arrangements were general in nature and not about Warburg specifically.
- March 18, 2013 - Expiration of the extended review period provided to Mr. Loftis.
- March 18, 2013 - Ms. Ditty met with Mr. Oliver and RSIC legal staff to discuss how to fully respond to Mr. Loftis’ concerns. Mr. Loftis’ email was reviewed, and Ms. Ditty summarized Mr. Loftis’ concerns. Other appropriate investment staff was contacted (including Mr. Klauka), in order to obtain all necessary information to respond. Ms. Ditty

prepared a response and emailed the response document to all of the Commissioners, noting that the additional two-week review period had expired, reiterating that the documents were legally sufficient and providing information about the custodian that had previously been provided.

- March 18, 2013 - Chairman Williams responded to all Commissioners by email and stated that Staff has permission to affix his signature.
- March 18, 2013 - Mr. Loftis responded to Chairman Williams' email that he would not be funding the capital call and had not yet had an opportunity to read Ms. Ditty's March 18 email.
- March 18, 2013 - Mr. Loftis emailed Ms. Ditty requesting a specific page of the full SOC-1 Report that had been previously sent and posted on the secure portal on January 30, 2013.
- March 18, 2013 - Mr. Loftis emailed Mr. Klauka stating that he was in the process of sending additional questions, but, as Chairman Williams had ordered the agreement signed.
- March 18, 2013 - Ms. Ditty responded to Mr. Loftis' request by providing the SOC-1 Report.
- March 19, 2013 - Ms. Gadson emailed the STO, asked for an update on opening the Warburg XI account, and asked if the STO needed additional information.
- March 19, 2013 - Ms. Ditty emailed Mr. Bill Condon (STO), and asked for help in determining why the STO had suggested that a default might occur on Warburg.
- March 19, 2013 - Ms. Ditty exchanged emails with Mr. Loftis asking about his concerns, and how Staff could resolve the issues. Mr. Loftis stated he would not be funding the Warburg investment.
- March 21, 2013 - Mr. Oliver emailed Mr. Bill Leidinger (STO), and asked for clarification about Mr. Loftis' intent to fund Warburg, and asked specifically why he would cause a default when Staff had followed the approved process.
- March 21, 2013 - Mr. Loftis sent Chairman Williams a letter indicating that he did not intend to fund the Warburg investment because the Commission had not issued a "required document of legal sufficiency" signed by the Commission's General Counsel, and he had not received information sufficient to determine whether the assets will be properly safeguarded.
- March 22, 2013 - Mr. Oliver responded to Mr. Loftis' March 21, 2013 letter to Chairman Williams, explaining that RSIC legal staff had satisfied the Commission's requirements with regard to legal sufficiency, noting that sufficient information had been provided about custodial arrangements to address Mr. Loftis' safeguarding concerns, and stating that Staff expected Mr. Loftis, as Custodian, to fulfill his responsibility to fund this properly approved investment upon receipt of a capital call.

- March 26, 2013 - Mr. Oliver met with Mr. Loftis at his office. Mr. Oliver noted that this meeting had been planned a few weeks earlier as part of his orientation visits with each Commissioner. During this meeting, Mr. Oliver discussed the issues Mr. Loftis raised regarding the Warburg investment, and how Staff believed that they had reasonably, appropriately, and satisfactorily addressed these issues. Mr. Loftis disagreed, and verbally reconfirmed he would not fund the Investment.

In response to a question from Chairman Williams, Mr. Loftis opined that the Investment was not legally sufficient because he has not been given a document in writing signed by General Counsel certifying legal sufficiency. Mr. Loftis opined that General Counsel's verbal statement and email of legal sufficiency is not sufficient.

Following a brief discussion, Mr. Allen Gillespie moved to adjourn. The motion was seconded by Mr. James Powers. The motion passed, with Messrs. Gillespie, Loftis, Powers, and Giobbe voting for the motion, and Dr. Travis Pritchett voting against the motion. It was noted that Chairman Williams abstained from voting. The meeting adjourned at 2:07 p.m.

[Staff Note: In compliance with S.C. Code Ann. §30-4-80, public notice of and the agenda for this emergency meeting were delivered to the press and to parties who requested notice on the evening of March 27, 2013 and posted at the entrance, in the lobbies, and near the 15th Floor Conference Room at 1201 Main Street, Columbia, SC, on March 28, 2013.]