



STATE OF NEW MEXICO
Educational Retirement Board

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ERB Response to Lawsuit

On January 14, 2009, Frank Foy, a former investment officer for the ERB, held a press conference unveiling a lawsuit in which he seeks over \$300 million in damages for himself and on behalf of the State of New Mexico for alleged wrongdoing involving certain investments by the ERB and the State Investment Council. In addition to naming a number of firms and individuals in the investment, accounting, and legal professions as defendants, the suit also names Bruce Malott, Chairman of the ERB's Board of Trustees and Gary Bland, New Mexico's Investment Officer and a member of ERB's Board as defendants. Neither the Board of Trustees itself nor the ERB are named as defendants. Mr. Foy alleges that the ERB was improperly pressured to make the investments and that he was falsely accused of sexual harassment and creating a hostile work environment because he opposed those investments.

The ERB believes that Mr. Foy's allegations are unfounded and that his lawsuit is without any merit. The investment that is the subject of Mr. Foy's lawsuit was approved in accordance with ERB's procedures. Mr. Foy participated in that process and recommended approval of the investment. As Chairman Malott stated, "it is unfortunate that he now seeks to exploit recent headlines for his personal vendetta." In addition, the ERB stands behind the actions it took in response to the allegations against Mr. Foy of sexual harassment and creating a hostile work environment.

It is important to note that neither Mr. Foy's lawsuit nor the investment that is its subject in any way jeopardize the security of current and future ERB retirees' pensions. The investment was a very small portion of ERB's investment portfolio. The Educational Retirement Plan is a defined benefit plan that is structured to provide retirement benefits to its members over the long term, regardless of market fluctuations and uncertainties.