



Legislation Text

File #: ID#17-3220, Version: 1

SUBJECT/RECOMMENDATION:

Approve the City of Clearwater Employees' Pension Plan as lead plaintiff in litigation against Novo Nordisk A/S regarding investment losses to the Plan; retain Saxena White, P.A. as legal counsel in this regard and authorize staff to negotiate a retainer agreement with Saxena White, P.A.

SUMMARY:

In December 2011, the Pension Trustees approved a contract retaining Saxena White, P.A. to provide monitoring of securities in the Plan's investment portfolio in connection with potential claims for damages suffered by the Pension Plan. There is no cost to the plan for the ongoing monitoring services.

Saxena White has recommended that the Pension Plan apply for lead plaintiff status in a litigation action against Novo Nordisk A/S, based in Denmark. Novo Nordisk is a global healthcare company focused on diabetes care and is one of the world's largest producers of insulin medications.

On January 11, 2017, a securities class action complaint was filed against Novo Nordisk in the U.S. District Court for the District of New Jersey asserting claims under the Securities Exchange Act of 1934 (Exchange Act) on behalf of shareholders who purchased Novo Nordisk stock between April 30, 2015 and October 27, 2016. The Complaint contends that, during the Class Period, Defendants violated provisions of the Exchange Act by issuing false and misleading press releases, financial statements, filings with the U.S. Securities and Exchange Commission (SEC), and statements during investor conference calls. Specifically, the Complaint alleges that, throughout the Class Period, Novo Nordisk reported materially false and misleading earnings and forecasts that were inflated through the collusive price fixing of the Company's insulin drugs. The Complaint also alleges that Novo Nordisk misrepresented and concealed the true extent of the pricing pressures it was experiencing from pharmacy benefit managers.

The pension plan purchased 53,046 shares of Novo Nordisk at a cost of nearly \$3 million during the Class Period. Saxena White estimates that the plan sustained an estimated loss of approximately \$1.15 million, and believes that a securities case against Novo Nordisk is strong and has meaningful prospects for recovery.

Pursuing lead plaintiff status will serve to ensure the Trustees and Plan administrators are fulfilling their fiduciary responsibilities, while conveying a clear message to the public and corporate world that the City is doing its due diligence in protecting Plan assets.

The retainer agreement will stipulate that the cost of litigation will result in no out-of-pocket costs to the Plan, with legal fees paid on a contingency basis only.

The pension plan's attorneys, Klausner, Kaufman, Jensen, & Levinson, as well as the plan's investment consultant, CapTrust, concur with pursuing lead plaintiff status.