

**CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

Page 1

May 27, 2009

The Board of Retirement met in regular session at 9:00 a.m. on Wednesday, May 27, 2009 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Terry Buck, Richard Cabral, Brian Hast, Jerry Holcombe, Paul Katz, William J. Pollacek, Jim Remick, Jerry Telles, and Maria Theresa Viramontes.

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Cary Hally, Retirement Chief Investment Officer; Rick Koehler, Retirement Accounting Manager; Toni Warren, Retirement Administration Manager; Karen Levy, Counsel.

Outside Professional Support: Representing:  
Harvey Leiderman Reed Smith LLP  
Bob Helliesen Milliman  
Tim Price Milliman

Other Attendees:

|                 |  |
|-----------------|--|
| Luz Casas       | Contra Costa County Employees' Retirement Association (CCCERA) Staff |
| Chih-Chi Chu    | CCCERA Staff   |
| Bill Hamilton   | Retiree Support Group (RSG)  |
| Donna Irwin     | RSG  |
| Nodge Irwin     | RSG  |
| Larry Dawson    | Self   |
| Charles Gaffney | Self   |
| Lorna Thomson   | Self   |
| Sally Zimmerman | Self   |
| Larry Hellstrom | Self   |
| Ben Best        | Retiree  |

**1. Pledge of Allegiance**

Remick led all in the *Pledge of Allegiance*.

**2. Public Comment**

Several spoke in public comment regarding the public record release of retiree names and salaries.

Retiree One, thanked all for the opportunity to speak. As a former Criminalist in the Sheriff's Office, he noted he had been required to testify on all types of cases. As a former Retirement Board Member, he knows the Board has an opportunity to reconsider their prior decision to release the confidential information.

Retiree Two, spoke from a written statement from another retiree who was unable to attend the meeting. The written statement will be filed with the Retirement Office

along with supporting documentation. The document was read to the Board expressing personal opposition to releasing the information requested. The following is a synopsis of the document filed:

The other retiree requests that the Board decline to furnish the information sought until the Board can determine whether it should file, on behalf of the retired members of the Retirement Association, a civil action for declaratory and other relief from any duty to make public personal and confidential information about its retired members.

Four reasons were stated why the Board should not release the records and should instead file a civil action to preclude the release:

1. There is no constitutional, statutory or decisional authority that compels the Board to furnish confidential information.
2. The Board has an unquestioned fiduciary and moral duty to its retirees to protect the confidentiality of their names and retirement allowance.
3. The Retirement Association is financially able to shoulder the burden that protecting the confidentiality of its retired members could entail.
4. While the damage to the Association's retirees from the release of their confidential records cannot be calculated, that damage will be substantial and irreparable.

An article from the May 4, 2009 edition of Newsweek magazine was quoted and attached to the letter. The article described a California family's fight against the images of their daughter's death in a traffic accident that was circulated on the internet.

The other retiree's letter concluded by requesting the Board to decline to release the information sought by the California Foundation for Fiscal Responsibility and to file a civil action for declaratory and other relief to prohibit the disclosure. The complete letter and supporting documents will be attached to the minutes.

Retiree Three, noted his concern with releasing names and salaries. If the information is released, anyone would be able to look on the internet and determine who makes the largest amount of money. There was a worry about the safety of both the retiree and spouse in their advancing years.

Retiree Four, commented although she didn't work with criminals, the same people were encountered in the work place. As an older retiree, there were worries of the release of names and being on the internet. There was a suggestion to release the information requested by categories, rather than names.

Retiree Five, stated, as a County employee for 37 years, working from the Sheriff's Office, and a member of the Retiree Support Group (RSG), she and her spouse have been inundated by e-mails and calls from retirees not wanting their names released. She was appalled when papers were filed with the Courts to have CCCERA's attorney

present. She felt the Retirement Board would be trying to help the retirees rather than opposing them in this endeavor.

Retiree Six, noted past involvement in a courtroom situation where the Martinez Police had to be parked in front of his residence for weeks because of a threat to him and his spouse. Anyone can "Google" names to find someone and download a picture of an individual's home. He believes the requester of public records will next ask for all retirees' names and salaries. RSG does not have the funds to pursue the change that must happen to prevent the release of personal information; however, with CCCERA's weight involved, there could perhaps be a change in the requirement to release the information. No one has a problem with listing salaries by category; the problems encountered are with releasing the names of retirees. He feels it's the Board's responsibility to protect the confidentiality of retirees.

### **3. Approval of Minutes**

It was **M/S/C** to defer approval of the minutes of the April 29, 2009 meeting until the June 10, 2009 Board meeting, for clarification on Page 3, first paragraph under "Milliman Review after Presentation". (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

It was **M/S/C** to approve the minutes of the May 6, 2009 meeting. (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

The Board moved into closed session pursuant to Govt. Code Section 54956.9(b) to discuss potential litigation.

The Board moved into open session.

### **4. Potential Litigation**

No reportable action taken.

It was noted, the litigation is no longer "potential". The case discussed in closed session is now: *Irwin v. Contra Costa County Employees' Retirement Association*, Case No C09-01478.

### **5. Review of Total Portfolio Performance**

Milliman - Bob Helliesen, Tim Price

After distributing a flash report, Helliesen began by discussing performance of various investment managers, including the returns for April in addition to the returns for the first quarter of 2009.

CCCERA's first quarter return of -6.6% trailed the median total fund and the median public fund. CCCERA slightly trailed the median funds over the past one through three-

year periods. CCCERA has outperformed both medians over trailing time periods four years and longer, ranking in the upper quartile of both universes over the past five through ten-year periods.

There was discussion on the PIMCO Stock Plus strategy, the effectiveness of the strategy and if PIMCO is positioned to add value, or if termination of the fund should be considered.

a. Managers Under Review

After discussion, it was **M/S/C** to continue with PIMCO under review for six more months and review at that time. (Yes: Buck, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes; No: Cabral)

Helliesen recommended placing McKinley on watch for performance. It was **M/S/C** to accept staff's recommendation to place McKinley in under review status for performance. (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

It was **M/S/C** to keep Adelante, Delaware and Emerald under review. (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

b. Changes in Allocation to Managers

There were no changes in allocation to managers

It was **M/S/C** to accept Milliman's Report. (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

6. Action on Rebalancing for Investment Managers under Review

Hally reviewed the history behind his recommendation and Helliesen noted his concurrence with the recommendation.

Hally noted a disciplined, objective approach to rebalancing takes emotion out of the process; therefore, adding value over time from "buying low and selling high."

It was **M/S/C** to accept the recommendation of staff to continue to rebalance to investment managers which have been placed "under review" in most circumstances. (Yes: Buck, Cabral, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes)

7. Pathway Capital

Hally reviewed his memo, including the history behind his recommendation. He noted Pathway has been a successful investment for CCCERA, and it is important to maintain a commitment to Pathway to sustain a diversified private equity program with Pathway.

It was **M/S/C** to accept the recommendation of staff to make a capital commitment of \$30 million to Pathway Capital Management to continue its private equity fund-of-funds program and authorize the CEO to sign any necessary documents. (Yes: Buck, Hast, Holcombe, Katz, Pollacek, Telles, and Viramontes; Abs: Cabral)

Cabral noted he abstained because he feels CCCERA no longer has the funds available for this investment.

Hally noted the funds for this investment will be drawn down over a 5 - 6 year period.

**8. Interest Crediting to Member Accounts Review**

Leedom reviewed her memo. She discussed the amount refunded to members and the interest paid in the last few years. There was discussion on methods used at other systems including the use of refundable and non-refundable amounts. It was the consensus of the Board to direct staff to research the options available for crediting interest and return to the Board with recommendations.

**9. Miscellaneous**

- (a) Staff Report - Leedom noted Hally will be scheduling more on-site visits to CCCERA investment managers. Board members will be contacted to determine their availability for visits.
- (b) Outside Professionals' Report - Leiderman discussed Orange County's suit challenging the "3% @ 50" safety members' benefit, stating that the Judge in Los Angeles recently dismissed the case and entered judgment for the retirement system and the Deputy Sheriffs. The Orange County Board of Supervisors is expected to vote within the next 60 days on whether to proceed with an appeal of the adverse judgment.
- (c) Trustees' Comments - Cabral noted he submitted a report on the NCPERS conference he attended. He discussed a recent letter to the editor in the Chronicle by the Lafayette City Manager that was inappropriate and inaccurate. He would like CCCERA to respond.

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Brian Hast, Chairman

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Jerry Telles, Secretary