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September 26, 2005

Chris Palun
Deloitte & Touche LLP
2868 Prospect Park Drive, Suite 400
Rancho Cordova, CA 95670

Re: Financial Statement Audit of CalPERS

Dear Mr. Palun:

By letter dated June 30, 2005, Chuck Beckwith, then Acting Chief of the California Public Employees' Retirement System's (CalPERS) Fiscal Services Division, requested that we furnish you certain information in connection with your examination of the financial statements of certain funds of CalPERS, pertaining to matters that existed as of June 30, 2005, as well as new matters since that date to the effective date of this letter.

As General Counsel for CalPERS, I have general supervision of the legal affairs involving the Board and the various funds (the funds) under its administration. In this capacity, I have reviewed litigation and claims threatened or asserted involving the funds, and have consulted with outside legal counsel where I have deemed it appropriate.

Subject to the foregoing and to the last paragraph of this letter, I advise you that from June 30, 2005, and continuing to the date of this letter, neither I nor any of the lawyers over whom I exercise general legal supervision, have given substantive attention to, or represented the Board in connection with, gain or loss contingencies,[1] in amounts as specified in Mr. Beckwith's June 30 letter, <u>except</u> as follows:

A. <u>*Cargill, DeWayne, et al. v. Metropolitan Water District of Southern California, et al.*</u>

1. <u>Nature of the Case</u>: Plaintiffs in this class action suit seek admission to CalPERS as employees of the Metropolitan Water District, a CalPERS contracting public agency. The district contends that these individuals are independent contractors but not its employees under the Public Employees' Retirement Law (PERL) and thus are not eligible to participate in this system.

[1] I am relying upon the definition of this term provided by clause (a) of Paragraph 5 of the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975), hereafter "Statement of Policy."

2. Status to Date: CalPERS has intervened in the action. CalPERS contends that employment status under the PERL must be judged using the common law rules. The trial court upheld CalPERS' interpretation and defendants appealed. Oral argument before the Court of Appeal was heard on August 21, 2001. The Court of Appeal sustained the trial court's ruling. In April 2004, the Supreme Court issued its decision upholding CalPERS' position. The matter has been remanded to the trial court for a determination of the individual plaintiffs' eligibility for CalPERS membership in accord with the Supreme Court's decision.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously advance the System's position in this case.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

B. *CalPERS v. Lone Star Steakhouse and Saloon*

1. Nature of the Case: This was a derivative action commenced by CalPERS on October 16, 2001, against Lone Star Steakhouse & Saloon, Inc., as the nominal defendant and certain of Lone Star's current and former directors, including the current CEO. The action challenged certain corporate actions including: the re-pricing of stock options, certain change-in-control provisions provided to management, and certain related-party transactions between the CEO and Lone Star.

2. Status to Date: A settlement was reached on June 1, 2005, pursuant to which certain of the company's current and former directors agreed to re-price $4.7 million in options. Another $3 million in cash was obtained. The case is now closed.

3. Management Intentions: The case is now closed.

4. Evaluation: A settlement was reached and the case is now closed.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

C. *CalPERS v. Bank of America Securities, LLC, et al. (Enron Corp)*

1. Nature of the Case: A state action was filed against Enron's directors, underwriters, investment banks, and other potentially culpable parties resulting from CalPERS purchases of the 7 percent Exchangeable Notes. CalPERS invested a total of $6,656,253.60 in those notes, with the loss to

be determined at trial. CalPERS amended to add Internorth Bonds, the predecessor company of Enron. CalPERS lost $45.5 million in Internorth Bonds.

2. Status to Date: This case was removed to federal court to be consolidated with other pending securities claims. CalPERS' attempt to remand the case back to state court was rejected. Discovery has begun.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously represent the interests of the System in this case.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

D. *CalPERS, et al. v. WorldCom, Inc., et al.*

1. Nature of the Case: CalPERS and two other public pension plans filed suit against the officers, directors, bankers and accountants of WorldCom, Inc. in connection with the plaintiffs' purchase of WorldCom, Inc. debt securities (bonds) sold to public investors. Plaintiffs filed suit in state court alleging that defendants violated section 11 of the Securities Act of 1933 and seek damages from defendants.

2. Status to Date: This case was removed to federal court. Plaintiffs' motion to remand the case back to state court was denied. The federal class action has been partially settled for $12.65 billion, but CalPERS has decided to continue with an opt-out strategy.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously prosecute the interests of the System in this case.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

E. *CalPERS v. AOL/Time Warner*

1. Nature of the Case: State court complaint alleging violations of the Securities Act of 1933; violations of California Corporations Code, California Civil Code and California Corporations Code section 1507; and common law fraud. All allegations arise out of alleged accounting improprieties at AOL and AOL Time Warner.

2. Status to Date: Complaint filed July 18, 2003. CalPERS' suit has been consolidated with similar suits filed by UC Regents and CalSTRS. The class has announced a $2.4 billion settlement and Time Warner, Inc. has reserved $600 million to settle other outstanding litigation.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously pursue this action.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

F. *CalPERS v. New York Stock Exchange*

1. Nature of the Case: A securities class action against the New York Stock Exchange and its seven trading specialist firms for violation of federal securities laws.

2. Status to Date: In June 2004, CalPERS was named co-lead plaintiff along with Empire Programs, Inc. Defendants moved to dismiss the action and a hearing was held on April 13, 2005. The court has not yet ruled on the motion.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously pursue this action.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

G. *Sacramento City Unified School District v. CalPERS, et al.*

1. Nature of the Case: This action seeks review of CalPERS' determination that approximately 100 Sacramento City Unified School District (SCUSD) employees who moved from SCUSD to the California Administrative Services Authority (CASA) did not actually change employers and were thus not entitled to withdraw from their enrollment in CalPERS. The lawsuit is premature from CalPERS' perspective because the administrative review of the decision has not yet been completed.

2. Status to Date: The case was originally filed in the Los Angeles County Superior Court. That court initially granted a joint motion by SCUSD and CalPERS to change venue. CASA then sought and obtained reconsideration and on October 15, 2004, the court reversed itself and

ruled that venue in the Los Angeles Superior Court is proper. The court further awarded CASA attorneys $50,000 in fees. An appeal of this ruling was filed in the Second District Court of Appeal. On August 4, 2005, the Second District Court of Appeal reversed the trial court and ruled the venue is proper in the Sacramento County Superior Court. The appellate court also overturned the $50,000 fee award. The matter is now awaiting transfer from the Los Angeles County Superior Court to the Sacramento County Superior Court.

3. Management Intentions: It is our understanding that CalPERS staff intends to vigorously advance the System's position in this case.

4. Evaluation: Because of the uncertainties of litigation, no evaluation of the likelihood of a favorable or unfavorable outcome is possible at this time.

5. Fund Potentially Impacted: Public Employees' Retirement Fund.

This response is intended to be limited by, and in accordance with, the Statement of Policy. Consistent with the last sentence of paragraph 6 of that Statement, this will confirm as correct my understanding that whenever, in the course of performing legal services for CalPERS, I have formed a professional conclusion that CalPERS must disclose or consider disclosure concerning a possible claim or assessment, I will so advise CalPERS' Board and staff and will consult with those parties to resolve the question of disclosure.

Please feel free to contact me if you have any questions or comments.

Sincerely,

PETER H. MIXON
General Counsel

cc: Fred Buenrostro, Chief Executive Officer
Larry Jensen, Chief, OFAS