



REPORT OF THE TRUSTEE

Civille & Tang PLLC

Joyce C.H. Tang

Betty Johnson v. Eloy S. Inos, et al., CV 09-0023

Combined Second, Third and Fourth Quarters
FY 2015

Filed on November 13, 2015

I. OVERVIEW OF SETTLEMENT FUND OPERATIONS

The Trustee presents her report on the operations of the Settlement Fund for the Second, Third and Fourth Quarters of Fiscal Year 2015.

A. CLASS MEMBERSHIP

There are a total of 3,009 Settlement Class Members. **Chart I** breaks down the membership and distribution of pension payments based on place of retirement and members' classification:

Chart I
(Period Ending 9/30/2015)

Municipality from which Member retired	Total # of Members	NMISF Class Member Classifications					Total Pension Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
SAIPAN	2,479	\$ 30,715.38	\$ 1,804,168.16	\$ 1,231.09	\$ 21,611.18	\$ 246,610.78	\$ 2,104,336.59
ROTA	316	\$ 3,242.13	\$ 225,115.54	\$ 268.96	\$ 1,177.59	\$ 26,509.76	\$ 256,313.98
TINIAN	214	\$ 4,850.17	\$ 150,604.39	\$ 33.76	\$ 1,427.07	\$ 20,375.02	\$ 177,290.41
PPE 9/30/15 PPE Total Payments @ 100%	3,009	\$ 38,807.68	\$ 2,179,888.09	\$ 1,533.81	\$ 24,215.84	\$ 293,495.56	\$ 2,537,940.98
Total Payments Annualized @ 100%		\$ 931,384.32	\$ 52,317,314.16	\$ 36,811.44	\$ 581,180.16	\$ 7,043,893.44	\$ 60,910,583.52
Total Payments Annualized @ 75%		\$ 698,538.24	\$ 39,237,985.62	\$ 27,608.58	\$ 435,885.12	\$ 5,282,920.08	\$ 45,682,937.64

Chart II breaks down the distribution of pension payments based on the members' current place of residence and members' classification:

Chart II
(Period Ending 9/30/2015)

PLACE OF RESIDENCE	Total # of Members	NMISF Class Member Classifications					Total Pension Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
CNMI	2,280	\$ 887,586.24	\$ 41,298,164.64	\$ 27,506.64	\$ 468,126.96	\$ 5,519,182.32	\$ 48,200,566.80
CONTINENTAL U.S.	495	\$ 15,051.60	\$ 7,967,517.84	\$ 9,304.80	\$ 49,896.96	\$ 1,069,779.12	\$ 9,111,550.32
GUAM	148	\$ 13,877.76	\$ 1,901,768.64	\$ -	\$ 46,954.56	\$ 276,373.68	\$ 2,238,974.64
NON-U.S.	41	\$ -	\$ 484,322.88	\$ -	\$ 2,866.80	\$ 74,595.12	\$ 561,784.80
REPUBLIC OF PALAU	29	\$ 14,868.72	\$ 377,597.28	\$ -	\$ 13,334.88	\$ 84,634.80	\$ 490,435.68
FSM	16	\$ -	\$ 287,942.88	\$ -	\$ -	\$ 19,328.64	\$ 307,271.52
Total Payments @ 100%	3,009	\$ 931,384.32	\$ 52,317,314.16	\$ 36,811.44	\$ 581,180.16	\$ 7,043,893.68	\$ 60,910,583.76
Total Payments @ 75%		\$ 698,538.24	\$ 39,237,985.62	\$ 27,608.58	\$ 435,885.12	\$ 5,282,920.26	\$ 45,682,937.82

B. MINIMUM ANNUAL PAYMENT AND OTHER SOURCES OF FUNDS.

1. Minimum Annual Payment

The NMI Government (the “Government”) timely made the Minimum Annual Payment of \$27 million in fiscal year 2015. See **Exhibit 1**, *Schedule of CNMI Government Contribution Payments*. The Government Contribution Schedule is updated regularly and is available online at the Settlement Fund’s website: <http://www.nmisf.com/rfp/annual-payment-status/>. The \$27 million payment represents 82.63% of the income received by the Settlement Fund in 2015. See **Exhibit 2**, *Sources of Funds*. The source of the remaining 17.37% payments received by the Settlement Fund came primarily from employer and employee contributions and investment income. *Id.*

For fiscal year 2016 (October 1 – September 30), the Minimum Annual Payment increased to \$30 million. See ¶ 4.0, *Settlement Agreement*, (ECF 468-1). The Government has until the end of December 2016 to pay \$4.5 million, the first quarter payment due for FY 2016.

2. 25% Pension Payments

In addition to the \$27 million Minimum Annual Payment, the Government has been paying the 25% additional pension payments (the “25% Payments”) to the retirees. Because most retirees live on a fixed income, the additional 25% Payments represent a significant amount for most retirees. The Settlement Fund believes that a more prudent use of the 25% Payments is to give the money to the Settlement Fund to invest. This would extend the investment horizon the Settlement Fund and provide more security and long-term benefit to retirees.

The Settlement Fund has been assisting the Government with processing of the 25% Payments on a bi-weekly basis. The Trustee has also expressed her concerns to Governor Inos that once the PL 18-56 (Casino Law) license fees are exhausted, the Government will have to find

another funding source to fund the 25% Payments. Governor Inos was amenable to an arrangement whereby the funds are deposited into an escrow account owned by the NMI Government to process the 25% Payments. Under this arrangement, the NMI Government will transfer funds each pay period for the 25% Payments in the escrow account, and the Settlement Fund role will be limited to providing confidential retirees' information and calculation of the payments to the bank to process the ACH payments to retirees. All expenses for the escrow account, ACH fees and maintenance fees will be borne by the NMI Government. This arrangement would cease if the NMI Government defaulted on any payment obligation under the Settlement Agreement.

3. Employer Contributions

The NMI Government and the Autonomous Agencies are required to pay Employer Contributions at the rate of 30% under Judge Govendo's Order. *See, ¶ 5.0, Settlement Agreement* (ECF No. 468-1 at 14). All of the Autonomous Agencies are current through pay period ending September 5, 2015, except for the Northern Marianas College ("NMC"), which has objected to paying the 30% rate. *See Chart III below.*

Chart III

Agency	Estimated ER Contribution	Payments Received	Unpaid ER Contribution	Penalty	Total Amount Due
NMC	\$238,599.17	\$159,066.80	\$79,532.37	\$19,883.09	\$99,415.46

NMC has taken the position that it is only required to pay employer contributions at the 20% rate, while the NMI Government and every other Autonomous Agency has been paying based on the 30% rate. On March 19, 2015, the Trustee filed a motion asking the Court to issue an order requiring NMC to comply with its obligation to pay employer contributions at the 30% rate.

Briefing has closed and the Trustee requests a hearing on this Motion at the Court's earliest convenience.

4. Reimbursement of Trustee Ad Litem Fees

The NMI Government agreed to reimburse the Settlement Fund for the *Trustee Ad Litem* fees in the amount of \$694,998.30, to be paid in twenty-four equal monthly installments of \$28,958.26 per month. The NMI Government has been prompt in making these payments. There is a balance of \$202,707.88 remaining as of November 2015.

5. Judiciary Building Loan

The Judiciary Building Loan matured on March 1, 2015. Currently, the outstanding principal balance in the amount of \$4,503,660.86, is due together with accrued interest of \$42,642.90 calculated through November 9, 2015. This year, the Settlement Fund has received seven payments totaling \$704,931.19 from the NMI Government. Governor Inos has asked the Settlement Fund to reinstate and extend the term of repayment. The Trustee proposed an extension of ten years, with interest at the stated rate under the Note of 7.75%, fully amortized over a ten-year period. The proposal also requires the NMI Government to pay \$250,000 to bring the loan current and to pay down a small portion of the principal. See **Exhibit 3**, *Letter to Governor Inos (Judiciary Building Loan) (11/2/2015)*.

Other than the Judiciary Building Loan and NMC debt, the NMI Government is current on all of its payment obligations to the Settlement Fund.

C. PENSION SYSTEM AUDIT SOFTWARE.

The Trustee previously reported that the design and installation of the pension audit software was completed and that tentative results showed large sums of possible overpayments and underpayments pension benefits. To validate these results, the Trustee requested a full audit

of each member file showing either overpaid or underpaid based on the software's calculations. 400 member files were flagged. As of this date, 200 files are in different stages of the audit review process:

Audit Stages
Stage 1 – File is reviewed to identify issues pertaining to under/overpayment and to ensure all supporting documents are available.
Stage 2 – File is recomputed by Member Services staff in accordance with the applicable laws and regulations governing the member's annuity calculation.
Stage 3 – File is forwarded to Member Services Manager for recalculation and final review.
Stage 4 – Completed file is sent to the Audit department to ensure that calculations are accurate and in compliance with applicable laws and Fund rules and regulations.
Stage 5 - Audited file is forwarded to Legal Department for legal review. For overpayments, adverse letters are issued by the Administrator. For underpayments, a findings and recommendations letter is forwarded to the Trustee for approval of underpayment pay out.

This entire audit process is time consuming as it requires Settlement Fund staff to manually review through boxes of stored registers dating back to the late 1980s and 1990s to find supporting documentation.

As of this date, 10 members have undergone legal review and have been issued an adverse letter for overpayment in the following amounts:

1. \$45,129.41
2. \$8,122.62
3. \$5,719.04
4. \$154,418.62
5. \$5,583.71
6. \$13,889.46
7. \$10,428.02
8. \$1,253.75
9. \$114,405.91
10. \$13,814.92

D. NMI SETTLEMENT FUND BUILDING

The Settlement Fund building sustained some damage from Typhoon Soudelor. The metal sheet flashings, exhaust vent and gutters on the roof were damaged. There are also deferred maintenance which the Fund has undertaken after Typhoon Soudelor. The maintenance include replacing HVAC split air systems and repairing plumbing in the second and third floors. Several glass windows were also replaced. The cost of repairs was \$4,300.

Additional work is needed to repair existing roof leaks and coat the roof top with a urethane finish. The proposals for repair is estimated to be between \$76,632.46 and \$103,518.10. These amounts are excessive considering the amount of work required. Because of the high demand for construction services after Typhoon Soudelor, construction costs have tripled in some cases. The Trustee believes that the repair and maintenance work can be performed for a fraction of the cost by procuring the materials directly and hiring laborers to perform the work. Although, the Settlement Fund maintains property insurance coverage with First Net Insurance Company, the actual typhoon damages is quite small, and the Settlement Fund is investigating the roof leaks to determine coverage. Because of a high deductible of \$100,000, these repairs will be out of pocket expenses for the Fund. Lastly, despite the much needed repairs, the Settlement Fund building is a safe and suitable for use as office space.

The Settlement Fund was approached by the U.S. Government (FEMA) after Typhoon Soudelor to lease the second and third floor office space (11,491 s.f.) for its headquarters. FEMA wanted to lease the space on a short term original for a period of three months. Last week, FEMA asked if the Settlement Fund would agree to extend the term for an additional one month term, to mid-December 2015. FEMA is paying rental of \$17,236.50 per month (\$1.50 per s.f.), with an

additional \$5,745.50 per month for utilities. A copy of the *U.S. Government Lease for Real Property* is attached hereto as **Exhibit 4**.

The Commonwealth Office of Transportation Authority (“COTA”) also leases 3,175 s.f. of space on the second floor. COTA pays \$1.25 per s.f. plus an average of \$1,500 for utilities. Due to a reduction in federal grant funding, COTA has requested to reduce the office space it occupies from 3,175 s.f. to 2,000 s.f.

E. CONSULTANTS.

The Settlement Fund has retained three consultants: (1) Wilshire Investments as its investment consultant; (2) Milliman Inc. as its actuary consultant; and (3) Ernst & Young as its auditor.

1. Investment Advisor

Maggie Ralbolvsky, a principal of Wilshire, is still the principal investment advisor for the Settlement Fund. Wilshire’s contract was renewed for FY 2016.

2. Actuary

For fiscal year 2016, the Settlement Agreement requires the Settlement Fund to retain an independent actuary to determine the amount of minimum annual payments to the Settlement Fund sufficient to enable the Settlement Fund to pay 75% of Class Members’ Full Benefits each year for the Settlement Fund’s expected life. *See Settlement Agreement* ¶ 4.0 (ECF No. 468-1). Milliman was engaged in March 2015. A report will be completed this month.

3. Auditors

Ernst & Young are auditors for the Settlement Fund. The audit for FY2014 began in January 2015 and has been completed. However, because of a disagreement between the NMI Government and the Settlement Fund on the issue of whether the Settlement Fund is a non-profit

tax exempt entity, the completion of the audit has been delayed. The Settlement Fund's position is that it is a non-profit tax exempt entity under CNMI law. The Fund recently sought a legal opinion from the CNMI Office of the Attorney General. See **Exhibit 5**, *Letter to Attorney General Manibusan (Tax Exempt Status) (11/2/2015)*. The Attorney General declined to render a legal opinion stating that the Settlement Fund "does not fall within the scope of representation," presumably because it is not an NMI Government agency.

The Trustee therefore requests that the Court confirm the non-profit tax exempt status of the Settlement Fund.

F. NMISF NEWSLETTER.

During the March 20, 2015 status hearing, the Court asked the Trustee to prepare a newsletter for the Fund. The Trustee will send out the Settlement Fund's first issue of the newsletter this month.

II. FINANCIAL REPORT

A. FINANCIAL OVERVIEW

1. Sources of Funds

In order to meet its financial obligations, the Settlement Fund drew down a total of \$22.81 million from its investments in FY2015. The *Sources of Funds Report* is attached hereto as **Exhibit 6**. Because the funding requirements of the Settlement Fund exceeds the income of the Fund (comprised of the Minimal Annual Payment, investment income, and employer/employee contributions), the Fund must draw down on its investments to cover the outflows.

2. FY2015 Budget

The Settlement Fund completed fiscal year 2015 under budget by \$2,563,282.97. The Settlement Fund's performance is summarized in **Chart IV** below.

Chart IV
Actual v. Budget Results
For Year Ending September 30, 2015

	F-Y-T-D Actual	F-Y-T-D Budget	FY 2015 Approved Budget	Entire Fiscal Year Remaining Budget
Pension Benefits & Refunds:				
Total Benefits Payment	46,481,535.23	47,817,000.00	47,817,000.00	1,335,464.77
Total Refunds	67,647.20	850,000.00	850,000.00	782,352.80
Total Benefits and Refunds Payment	46,549,182.43	48,667,000.00	48,667,000.00	2,117,817.57
General & Admin. Expenses				
Total Personnel Expenses	766,870.23	887,878.25	887,878.25	121,008.02
Total Professional Fees	616,823.47	940,000.00	940,000.00	323,176.53
Total Other General & Admin. Expenses	250,766.96	256,000.00	256,000.00	5,233.04
Total General & Admin. Expenses	1,634,460.66	2,083,878.25	2,083,878.25	449,417.59
Total Fixed Assets	13,952.19	10,000.00	10,000.00	(3,952.19)
Total Expenditures	48,197,595.28	50,760,878.25	50,760,878.25	2,563,282.97

See *FY2015 Actual Expenses v. Budget Results Report* attached hereto as **Exhibit 7**.

3. Proposed FY 2016 Budget

The Settlement Fund’s proposed expenses for FY 2016 total \$48,636,413, which is a reduction of 4.11% from FY2015 budget (\$50,760,878.25). See **Chart V** below for a summary.

Chart V
FY2016 Proposed Budget

	FY 2015 Approved Budget	FY 2016 Proposed Budget	FY'16- FY'15 % change
Pension Benefits & Refunds:			
Total Benefits Payment	47,817,000.00	46,315,000.00	-3.14%
Total Refunds	850,000.00	225,000.00	-73.53%
Total Benefits and Refunds Payment	48,667,000.00	46,540,000.00	-4.37%
General & Admin. Expenses			
Total Personnel Expenses	887,878.25	848,413.00	-4.44%
Total Professional Fees	940,000.00	899,500.00	-4.31%
Total Other General & Admin. Expenses	256,000.00	338,500.00	32.23%
Total General & Admin. Expenses	2,083,878.25	2,086,413.00	0.12%
Total Fixed Assets	10,000.00	10,000.00	0.00%
Total Expenditures	50,760,878.25	48,636,413.00	-4.19%

See **Exhibit 8** for a more detailed breakdown of the proposed budget for fiscal year 2016.

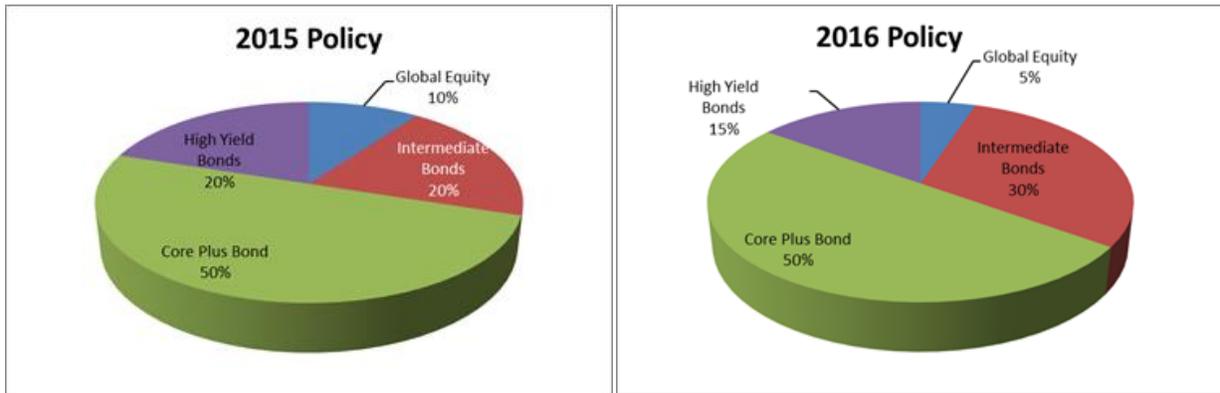
Of the \$48,636,413 amount budgeted for FY2016, \$46,540,000 million was allocated to Settlement Fund members’ pension benefits and disability payments, \$848,413 for wages, salaries and employer expenses, \$899,500 for consultant and professional fees, \$338,500 for other general and administrative expenses, and \$10,000 for other expenses. With regard to “Total Other General & Administrative Expenses,” the 32.23% budget was includes a reserve which can be used by the Settlement Fund to repair or maintain its capital assets and to cover postage.

B. INVESTMENTS REPORT

1. Investment Policy

As the Settlement Fund’s investments are being liquidated to pay pension payments, the principal available for investment decreases, and the investment horizon shortens. Furthermore, because the Settlement Funds is not able to take high levels of capital markets risk, it continues to implement a conservative investment policy. For investment policy for fiscal year 2016 will reduce risk by increasing bond investments by 5% and decreasing equity investments by 5%. The target return for fiscal 2016 is 3.8%, a reduction of .5% from FY2015 target return of 4.3%.

**Chart VI
Asset Allocation Charts
Fiscal Years 2015 and 2016**



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Consistent with the 2015 investment policy, the investments will be rebalanced as follows
(as of 8/31/2015):

Chart VII
NMI Settlement Fund
Rebalancing Worksheet
(as of 8/31/2015)

Description	Current Balance			2016 Policy			Arithmetic Calculated Transfers
	8/31/2015						
	\$	% Class	% Total	\$	% Class	% Total	
GLOBAL EQUITY:							
BlackRock ACWI Superfund B	\$7,209,841	100.0%	9.6%	\$3,772,970	100.0%	5.0%	(3,436,871)
TOTAL EQUITY	\$7,209,841	100.0%	9.6%	\$3,772,970	100.0%	5.0%	(3,436,871)
FIXED INCOME:							
BlackRock Interm. Govt/Credit Idx B	\$8,056,538	12.1%	10.7%	\$22,637,822	31.6%	30.0%	14,581,284
Dodge & Cox Income Fund	\$38,930,643	58.3%	51.6%	\$37,729,703	52.6%	50.0%	(1,200,940)
PIMCO Total Return Fund	\$122	0.0%	0.0%	\$0	0.0%	0.0%	(122)
Hotchkis & Wiley High Yield Fund I (HWHIX)	\$19,802,095	29.6%	26.2%	\$11,318,911	15.8%	15.0%	(8,483,184)
TOTAL FIXED INCOME	\$66,789,398	100.0%	88.5%	\$71,686,436	100.0%	95.0%	4,897,038
SPECIAL INVESTMENTS							
JP Morgan Multi - Manager Strategies	\$0	0.0%	0.0%	\$0	100.0%	0.0%	0
TOTAL SPECIAL INVESTMENTS	\$0	0.0%	0.0%	\$0	100.0%	0.0%	0
MUTUAL FUND CASH	\$1,460,167		1.9%	\$0	100.0%	0.0%	(1,460,167)
Total	\$75,459,406		100.0%	\$75,459,406		100.0%	\$0

2. Updated Investment Balance (9/30/2016)

The balance in the Settlement Fund's investment accounts for the quarter ended September 30, 2015, are:

Beginning Investment Value:	\$80,177,000	
Liquidation/Withdraw:	(\$4,560,000)	
Investment Gain/Loss:	(\$1,917,000)	(Time weighted return -2.50%)
Ending Investment Value:	\$73,700,000	

See, Exhibit 9, at p. 18, *NMI Settlement Fund Investment Performance Analysis (9/30/2015)* and Exhibit 10, *September 30, 2015 Flash Report*.

As stated previously by the Trustee, unless the NMI Government increased its contributions, the Settlement Fund is expected to become a pay-as-you-go entity during the year 2019, by which time retirement income of all the beneficiaries will be entirely dependent upon the CNMI Government's contributions. It remains the Trustee's view that the Casino licensing fee of \$15 million per year paid by the licensors is better used for payment of the 75% pension and/or

investment by the Settlement Fund so as to increase the investment horizon, instead of the 25% payment that the Government is paying to retirees.

III. LITIGATION STATUS

A. MERRILL LYNCH ARBITRATION SETTLEMENT.

The Trustee is pleased to report that the Merrill Lynch litigation has settled for the amount of \$7,350,000. The Settlement Fund filed a *Motion for Approval of Settlement and Release Agreement & Payment of Attorney's Fees and Costs* (ECF No. 727) on November 6, 2015. The attorney's fees owed under the *Engagement Agreement* (ECF No. 683-2) total \$1,837,500, and will be paid to the following firms as follows:

1. Bronster Hoshibata ("Bronster Firm") - \$50,000
2. Levin Firm Papantonio, Thomas, Mitchell, Rafferty, P.A. ("Levin Firm") - \$1,340,625.00
3. Clay, Champman, Iwamura, Pulice & Nervell ("Clay Firm") - \$357,500.00
4. O'Connor Berman Dotts & Banes ("Dotts Firm") - \$89,375.00

The *Engagement Agreement* further requires reimbursement of costs, which in this case totals \$390,535.60, and is allocated as follows:

1. Levin Firm Papantonio, Thomas, Mitchell, Rafferty, P.A. ("Levin Firm") - \$338,616.93
2. Clay, Champman, Iwamura, Pulice & Nervell ("Clay Firm") - \$30,897.24
3. O'Connor Berman Dotts & Banes ("Dotts Firm") - \$21,021.43

The settlement was the product of a difficult, complicated and often contentious negotiations. Without the unwavering support of Judge Francis Tydingco-Gatewood, and the contributions from the Peter Mougey, Page Poerschke, Michael Dotts, Gerald Clay, Margery Bronster, Robert Hatch, and Merrill Lynch and its counsel, this hard fought settlement would not have happened.

B. ADMINISTRATIVE APPEALS PROCESS.

1. NMISF Appeal Rules

The Trustee hereby submits the final approved NMISF Administrative Appeal Rules and Procedures, as well as the Fee Schedule (collectively, the “Appeal Rules”), pursuant to the Court’s Order (ECF No. 710). The Appeal Rules were posted for public comment on the Settlement Fund’s website for more than thirty days, with the comment period beginning on June 15, 2015. See **Exhibit 11**, *Public Notice of Appeal Rules*. The Settlement Fund received one comment from the CNMI Office of the Attorney General. See **Exhibit 12**, *Letter from Attorney General Manibusan (08/12/2015)*. Several of the Attorney General’s comments were incorporated and appear in the black-line version of the Appeal Rules attached as **Exhibit 13**. The final version of the Appeal Rules is attached as **Exhibit 14**.

2. Appointment of Hearing Officers and Arbitrator

The Settlement Fund posted announcements for the Administrative Hearing Officer and Arbitrator positions. After interviewing candidates, three administrative hearing officers and one arbitrator, all of whom are attorneys licensed to practice law in the CNMI, were selected based on their qualifications, availability, and experience, to assist with the administrative proceedings. The hearing officers selected are attorneys Maya Kara, Josh Berger, and Leevin Camacho. The arbitrator selected is Richard Johnson.

The administrative appeal process will commence upon approval of the Appeal Rules and the Hearing Officers and Arbitrator and their proposed contracts.

A summary of pending administrative cases is provided in the *Pending Administrative Cases Report* attached as **Exhibit 15**.

IV. PENDING LEGISLATIVE BILLS AND INITIATIVE

The Legislature is presently considering several legislations which, if passed, may affect the Settlement Fund and its members. The proposed legislations and initiative are available on the Settlement Fund website and at www.cnmileg.gov.mp/.

1. **House Bill (“HB”) 19-21.** HB 19-21 amends §§ 2306 and 2307 of Public Law 18-56 (*i.e.* casino gaming law) and allocates the entire license fee to cover the 25% Payments. Currently, only \$10 million of the \$15 million annual licensing fee is allocated for the payment of the 25% Payments. *See* Public Law 18-56.

The Trustee believes that these funds should be used for either payment of the 75% payments and/or given to the Settlement Fund to be invested so that the investment horizon can be extended. HB 19-21 is being reviewed by the Ways & Means Committee. The deadline for the Committee to act and to report to the House was on April 7, 2015.

2. **House Bill 19-24.** The purpose of HB 19-24 is to provide a Supplemental Retirement Benefit to retirees who return to government employment by re-computing retirement benefits, a procedure which the Retirement Fund Act does not allow. The Settlement Fund objects to this Bill.

The Bill provides a Supplemental Retirement Benefit which would be calculated under a new formula: “2.5 percent times the Salary for Years of employment after Retirement or the Average Annual Salary prior to retirement, whichever is greater, times the sum of the Years of Membership Service and Years of Employment after Retirement minus the Retirement Annuity”. HB 19-24, at 3:6-11. Section 104 of Bill 19-24 also provides these future retirees with an annuity

which may be assigned and garnished for spousal and child support. Section 105 provides for a Survivor Annuity which gives a surviving spouse 50% of the Supplemental Retirement Benefit.

The same measure was previously introduced and approved by the House under the 18th Legislature as HB 18-174, but it was left “unassigned” by the Senate. The Settlement Fund provided comment on HB 18-174 on October 19, 2014, opposing HB 18-174. *See* Trustee’s October 19, 2014 letter to Senator Jovita Taimanao, attached as Exhibit 11 to the March 13, 2015 Report of the Trustee (ECF No. 697-11). The objections made by the Trustee were as follows: (1) any modification to Settlement Fund members’ benefits without the Settlement Fund’s consent and the NMI District Court’s approval would be ineffective under the Settlement Agreement; and (2) the revenue stream for the Supplemental Retirement Benefit is already being used to pay the Minimum Annual Payments due under the Settlement Agreement. *See id.*

The Trustee opposes HB 19-24 for the same reasons. HB 19-24 is currently before the Ways & Means Committee. The deadline for the Committee to act and to report to the House was on April 28, 2015.

3. **HB 19-91**. The purpose of HB 19-91 is to amend section 8392(a)(2) of the Retirement Fund Act “to include veterinarians in the public sector as exempted professionals from the prohibition of reemployment and double dipping due to the lack of availability in the labor market.” HB 19-91 is presently with House Judiciary and Governmental Operations Committee. The deadline for disposition was September 21, 2015.

4. **Senate Bill (“SB”) 19-10**. The purpose of SB 19-10 is to amend §8364 of the NMI Retirement Fund Act to allow retirees to enroll in the Government Health Insurance Program any time after retirement. The Retirement Fund Act prohibits a retiree from enrolling in

the insurance program if the retiree did not enroll in the health insurance program within the six month period upon retirement. *See* 1 CMC § 8364.

If passed, SB 19-10 will give retirees the option of enrolling in the Government Health Insurance Program during the upcoming open enrollment. SB 19-10 is not clear as to whether this is a one-time enrollment opportunity or whether retirees will be permitted to enroll during open enrollment each year. Several retirees have asked for this benefit and the Settlement Fund believes that providing retirees with an opportunity to join the program is a good thing. However, the ramifications, *e.g.*, increase premiums and higher deductibles, of this new law need to be studied.

SB 19-10 is currently before the Senate Health & Welfare Committee with no scheduled date for committee action.

5. **SB 19-16.** The purpose of SB 19-96 is to allocate 50% of all civil and criminal fines and fees and all revenues collected by the Court (the source of funds for Judiciary Building Loan) to establish a Department of Public Safety operating fund. The CNMI Judiciary opposed SB 19-16, and a copy of their opposition is attached hereto as **Exhibit 16.** The Senate Standing Committee filed a report on April 27, 2015 recommending that action on the bill “be deferred and most likely than not filed in the Committee.”

6. **SB 19-57.** The purpose of SB 19-57 is to re-establish the special annuity for governors and lieutenant governors. The special annuities are being paid directly by the CNMI Government through annual appropriations. The Settlement Fund will not be obligated to pay special annuities. According to the Senate Clerk, this bill passed the Senate on September 19, 2015 and has been transmitted to the House for action as of September 21, 2015.

7. **Senate Legislative Initiative (“SLI”) 19-01.** The purpose of SLI 19-01 is to amend Article III, Section 20(b) of the CNMI Constitution to “allow government retirees to be reemployed without losing their retirement benefits for an unrestricted period of time, provided that qualified local non-retiree applicants be give first priority on any vacancies” SLI 19-01, at 1:5-9. SLI 19-01 passed the Senate on October 29, 2015 and has been transmitted the House for action. The Trustee opposes this SLI and will provide written comment.

The Settlement Fund will continue to monitor the proposed bills and initiative mentioned above.

Respectfully submitted this 13th day of November, 2015.

CIVILLE & TANG, PLLC

/ s /

Joyce C.H. Tang
Trustee