



**REPORT OF THE TRUSTEE**

**Civille & Tang PLLC**

**Joyce C.H. Tang**

*Betty Johnson v. Ralph DLG. Torres, et al., CV 09-00023*

Combined First Quarter FY 2023 through Fourth Quarter FY 2023

October 18, 2023

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## I. INTRODUCTION

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Ten years ago, on August 6, 2013, Class Counsel (Margery Bronster and Robert Hatch), the CNMI Government and the numerous Government agencies,<sup>1</sup> led by the late Governor Eloy Inos, together with the Trustee Ad Litem (Joseph Razzano), reached a momentous settlement that brought the *Betty Johnson* class action lawsuit to an end. It was a watershed moment for the CNMI. The Retirement Fund was nearly out of money and retirees were facing a bleak future in which they would not have the comfort of a reliable, regular benefit payment to subsist on in retirement. The crisis confronting the Government and retirees was created by years of mismanagement, the failure to fund the NMI Retirement Fund, and an enormous unfunded government liability of almost a billion dollars.

After difficult negotiations, the settlement was memorialized in the Final Amended Stipulation and Agreement of Settlement (“Settlement Agreement”). ECF No. 468-1. This settlement was the culmination of four years of persistence and hard work by Class Counsel and a Governor who was willing to make the difficult decision to fund the settlement. Judge Robert Faris was a tireless mediator and, in the end, Class Counsel and Governor Inos agreed to terms that would preserve the retirees’ constitutional rights to accrued retirement benefits in large part, and the Government committed to pay at least 75% of the retirees’ benefits. The Settlement Agreement became the framework for the creation of the Settlement Fund.

The Court proceeded to interview and select a candidate to fill the role of the Settlement Fund trustee. On September 25, 2013, I was appointed by Chief Judge Frances M. Tydingco-

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<sup>1</sup> This includes the Office of the Attorney General, NMI Retirement Fund, Department of Finance, Commonwealth Healthcare Corporation, Northern Marianas College, and the Public School System Board of Education.

Gatewood to serve as the trustee of the Settlement Fund. ECF No. 526. The transition from the Retirement Fund to the Settlement Fund was not easy. There was little money, the Fund was obligated to pay \$51 million in annual benefits (75%), and there were huge uncertainties regarding the future. In the first year (FY 2014) of the Settlement Fund, the Government was required under the Settlement Agreement to pay \$25 million in minimum annual payments (“MAP”), and the balance of \$26 million would come from the Settlement Fund’s meager and dwindling investment reserves. Initially, the Settlement Fund was required to payout over \$40 million to the NMI Retirement Fund members who elected to terminate their membership in the Retirement Fund and were allowed to withdraw their contributions under P.L. 17-82. This left the Settlement Fund with a starting balance of approximately \$113 million in investment reserves and an obligation to pay no less than \$26 million from its own investment reserves in year one and similar but lesser amounts for four consecutive years, including the cost of operations. The amount of money available for investment was being depleted and the investment horizon was five years at best. ECF No. 613. In other words, this meant that by year six (FY 2019), the Settlement Fund would be broke. This was the inauspicious beginning of the Settlement Fund.

The subsequent years were challenging due to back-to-back typhoons between 2015 to 2018. During Governor Ralph Torres’ term, the construction-related activities and the opening of the Imperial Pacific Casino generated huge amounts of tax revenues for the CNMI. This additional revenue helped shore up the Settlement Fund’s investment reserves through the payment of Alternative Payment of a Greater Amount (“APGA”). The Imperial Pacific Casino has since shut down its operations due to, among other things, lack of funding and restrictions brought about by China’s crackdown on corruption.

The pandemic years were equally challenging; however, the availability of CARES Act funding and ARPA State Fiscal Recovery Fund (“ARPA”) freed up revenue for the Government to pay the MAP to the Settlement Fund. Today, pandemic recovery is slow. Tourism recovery is at 50% of the pre-pandemic levels, and local businesses are struggling to keep their doors open. Money is extremely tight and the Government has instituted austerity measures to control costs. The tax revenues are not at the level needed to fund all Government operations and meet its obligations.

We have almost come full circle in the ten years the Settlement Fund has been in existence. Today, the Settlement Fund has approximately \$118 million in investments and cash, 98% of which is invested, albeit in a much stronger position. The continued success of the Settlement Fund is dependent on the Government’s ability to make the MAP in a timely and consistent manner. Today, the Government has not recovered fully from the pandemic, and with limited revenues available and no federal government pandemic assistance, it struggles to pay the MAP, the health and life insurance payments, the 25% voluntary benefit payments, all of which are in addition to the cost of normal government operations.

Although there were many challenges at the start-up of the Settlement Fund and the ensuing years, this Court has provided the guidance and stalwart support needed to ensure all of the retirees’ interests are protected and the terms of the Settlement Agreement are carried out.

## II. OVERVIEW OF SETTLEMENT FUND OPERATIONS

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This part of the report addresses the operations of the Settlement Fund for the First Quarter through Fourth Quarter of FY 2023. In FY 2023, the Government timely paid the MAP and also the 25% voluntary benefit payments in order to make the Settlement Class Members whole. The Government passed P.L. 23-09, its FY 2024 Budget, on September 30, 2023 (“2024 Budget”). See **Exhibit 1** attached. As discussed in **Section V** below, the 2024 Budget does not fully cover certain programs, including Group Health and Life Insurance Program (“GHLIP”) and the 25% voluntary payments to Class Members.

The outlook for tourism on Saipan is bleak. Although arrivals in September 2023 increased by 136% (19,483 visitors) when compared with September 2022 (8,256 visitors),<sup>2</sup> this increase represents about one-half of the pre-pandemic levels. Unless airlines make more seats available at an affordable price, tourism, and in turn the CNMI’s economy, will continue to suffer.

In 2022, Federal Reserve monetary injections combined with unprecedented government stimulus funding through the CARES Act and ARPA kept many businesses afloat. Today, we are experiencing spiking inflation and multiple global conflicts, in both Ukraine and more recently, Israel and Palestine. These global events make for a challenging and volatile financial environment and will impact the Settlement Fund’s ability to obtain higher returns from its investments. In FY 2022, the Settlement Fund experienced a drawdown of \$18 million due to stocks and bonds suffering double-digit negative returns. In FY 2023, due to an investment

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<sup>2</sup> See MVA: Over 19,000 arrivals in September (2023), available at [https://www.mvariety.com/news/local/mva-over-19-000-tourist-arrivals-in-september/article\\_0e76ac14-6b64-11ee-b233-27e1a37d219b.html](https://www.mvariety.com/news/local/mva-over-19-000-tourist-arrivals-in-september/article_0e76ac14-6b64-11ee-b233-27e1a37d219b.html) (last visited October 18, 2023).

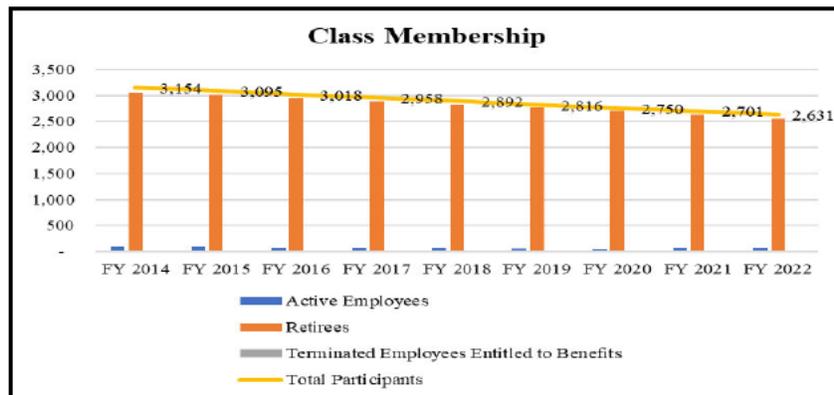
diversification strategy by adding Real Assets to the Settlement Fund’s investment portfolio, the Settlement Fund was able to recover with a net positive gain of \$20.2 million compared to pre-pandemic levels. This was achieved against the backdrop of inflation, a highly volatile market, and geopolitical tensions.

**A. CLASS MEMBERSHIP DATA**

As of August 31, 2023, the Settlement Fund had 2,465 Settlement Class Members. This is broken down into two categories: (1) 2,403 retirees, and (2) 62 active employees, 22 of whom are retirees who have returned to government service. Between FY 2022 and August 31, 2023, the class membership decreased by 166 members:

	9/30/2022	9/30/2021	9/30/2020	9/30/2019
<b>Participant Counts</b>				
Active Employees (Class I)	56	58	45	54
Active Employees (Class II)	<u>17</u>	<u>13</u>	<u>3</u>	<u>4</u>
Total Active Employees	73	71	48	58
Retirees	<u>2,558</u>	<u>2,630</u>	<u>2,702</u>	<u>2,758</u>
Total Participants	2,631	2,701	2,750	2,816

As expected, attrition due to mortality caused an annual decrease in class membership between 1.9% - 2.6% from 2014 to the present. During this period, the class membership decreased by about 16.58% in total.



A breakdown of the distribution of benefit payments based on the Settlement Class Members' place of retirement and classification is presented in **Chart 1** below.

**Chart 1**  
(Period Ending 8/31/2023)

PLACE OF RETIREMENT	Total # of Members	NMISF Class Member Classification				Total Benefit Payments
		Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
ROTA	264	\$ 178,000.93	\$ 187.15	\$ 1,465.34	\$ 36,543.38	\$ 217,303.13
SAIPAN	2027	\$ 1,457,916.10	\$ 932.18	\$ 7,248.91	\$ 278,817.77	\$ 1,752,455.03
TINIAN	174	\$ 116,927.62	\$ -	\$ 510.91	\$ 26,029.45	\$ 143,684.23
<b>Total Payments @ 100%</b>	<b>2465</b>	<b>\$ 1,752,844.65</b>	<b>\$ 1,119.33</b>	<b>\$ 9,225.16</b>	<b>\$ 341,390.60</b>	<b>\$ 2,113,442.39</b>
<b>Total Payments @ 75%</b>		<b>\$ 1,314,633.49</b>	<b>\$ 839.50</b>	<b>\$ 6,918.87</b>	<b>\$ 256,042.95</b>	<b>\$ 1,585,081.79</b>

Of the 2,465 Settlement Class Members receiving benefit payments as of August 31, 2023, 83% of the members are from Saipan, 10% from Rota, and 7% from Tinian.

A breakdown of the distribution of benefit payments based on the Settlement Class Members' residence and classification is presented in **Chart 2** below.

**Chart 2**  
(Period Ending 8/31/2023)

PLACE OF RESIDENCE	Total # of Members	NMISF Class Member Classification					Total Benefit Payments
		Retiree Disabled	Retiree	Surviving Child Disabled	Surviving Child	Surviving Spouse	
CNMI	1760	\$ 7,645.41	\$ 1,335,761.75	\$ 1,026.64	\$ 6,737.11	\$ 247,286.33	\$ 1,598,457.24
CONTINENTAL U.S.	543	\$ 1,217.24	\$ 332,547.37	\$ 92.69	\$ 1,741.72	\$ 73,988.45	\$ 409,587.47
FSM	9	\$ -	\$ 3,721.42	\$ -	\$ 303.86	\$ 2,685.43	\$ 6,710.71
GUAM	85	\$ -	\$ 47,930.61	\$ -	\$ 388.37	\$ 8,520.48	\$ 56,839.46
NON U.S.	44	\$ -	\$ 16,322.30	\$ -	\$ 54.10	\$ 6,461.71	\$ 22,838.11
REPUBLIC OF PALAU	24	\$ -	\$ 16,561.20	\$ -	\$ -	\$ 2,448.20	\$ 19,009.40
<b>Total Payments @ 75%</b>	<b>2465</b>	<b>\$ 6,646.99</b>	<b>\$ 1,314,633.49</b>	<b>\$ 839.50</b>	<b>\$ 6,918.87</b>	<b>\$ 256,042.95</b>	<b>\$ 1,585,081.79</b>

Of the total benefit payments paid, 76% of the total benefits paid in FY 2023 were made to CNMI residents, while 19% were paid to members living in the continental United States. The

remaining 5% of benefits are paid to members residing in Guam, other Micronesian islands, and non-U.S. jurisdictions.

**B. MINIMUM ANNUAL PAYMENT AND OTHER SOURCES OF FUNDS**

**1. Minimum Annual Payment**

Milliman, Inc., the Settlement Fund's actuary consultant, confirmed the MAP of \$36 million for FY 2023, and projected a MAP of \$34 million for FY 2024. *See Actuarial Valuation Report as of September 30, 2022* at 1, attached hereto as **Exhibit 2**. The MAP represents the 75% annual benefit payments the Government is required to pay under the Settlement Agreement. The Government continues to make bi-weekly MAP payments to the Settlement Fund and has paid the full \$36 million MAP for FY 2023 to the Settlement Fund. *See Schedule of CNMI Government Contribution Payments (FY 2023)*, attached hereto as **Exhibit 3**. Since the implementation of the bi-weekly MAP payments in 2018, the Settlement Fund has avoided having to draw down on its investments to pay benefit payments. The status of MAP payments is reported and published on the Settlement Fund's website and updated regularly at <https://www.nmisf.com/rfp/annual-payment-status/>.

**2. Alternative Payment of a Greater Amount**

The Settlement Agreement requires the Government to make APGA payments equal to the difference of 17% of the Government's Total Annual Revenue, after deducting the amount of MAP paid. *Settlement Agreement* § 4.2, ECF No. 468-1 at 11-12. APGA payments previously received were invested along with other investment funds in the Settlement Fund's investment portfolio.

Based on the Government's audited financial statements for FY 2020, no APGA is due. Whether the Government will be required to pay APGA for FY 2021, FY 2022, and FY 2023 will be determined once the Government releases its audited financial statements for these periods. Given the state of the economy and the dim financial outlook, it is unlikely the Government will meet the threshold revenue to have to pay APGA for FY 2021 through FY 2023.

	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
<b>TOTAL ANNUAL REVENUE:</b>							
<b>Taxes</b>	154,831,829.00	149,719,538.00	226,119,758.00	279,791,409.00	267,791,170.00	196,920,863.00	187,611,870.00
<b>Licenses and Fees</b>	46,005,588.00	31,392,355.00	38,694,768.00	36,506,891.00	21,473,133.00	34,411,145.00	17,686,621.00
<b>Charges for Sales and Services</b>	5,805,208.00	6,133,601.00	7,209,159.00	8,659,050.00	9,097,118.00	7,860,093.00	7,650,882.00
<b>Contributions from Component Units</b>	653,737.00	5,438,928.00	2,779,810.00	2,262,224.00	1,904,725.00	2,590,236.00	2,010,735.00
<b>Interest and Dividends</b>	303,884.00	211,956.00	85,583.00	253,796.00	582,210.00	626,315.00	155,152.00
<b>Other Sources</b>	6,563,386.00	7,089,653.00	12,901,824.00	17,093,152.00	8,878,379.00	7,123,549.00	9,602,365.00
<b>Recoveries</b>	451,952.00	2,954,730.00					
<b>Total Annual Revenue</b>	<b>214,615,584.00</b>	<b>202,940,761.00</b>	<b>287,790,902.00</b>	<b>344,566,522.00</b>	<b>309,726,735.00</b>	<b>249,532,201.00</b>	<b>224,717,625.00</b>
<b>LESS DEDUCTIONS:</b>							
<b>Minimum Annual Payments</b>	25,000,000.00	27,000,000.00	30,000,000.00	33,000,000.00	45,000,000.00	44,000,000.00	42,000,000.00
<b>GHLI</b>							
Health Insurance	6,782,603.65	7,169,924.32	10,208,008.15	10,624,546.17	10,162,245.62	10,695,524.62	10,566,700.86
Life Insurance	616,816.29	559,108.05	553,840.62	580,971.42	600,173.59	576,158.66	563,038.40
<b>Class Counsel Fees</b>							
Bronster Hoshibata (\$6,500,000)	150,000.00	1,475,000.01	2,708,333.33	2,166,666.66			
Stephen C. Woodruff (\$185,000)	185,000.00						
Bruce Jorgensen (\$800,000)		800,000.00					
<b>Total Deductions</b>	<b>32,734,419.94</b>	<b>37,004,032.38</b>	<b>43,470,182.10</b>	<b>46,372,184.25</b>	<b>55,762,419.21</b>	<b>55,271,683.28</b>	<b>53,129,739.26</b>
<b>NET TOTAL ANNUAL REVENUE:</b>	<b>181,881,164.06</b>	<b>165,936,728.62</b>	<b>244,320,719.90</b>	<b>298,194,337.75</b>	<b>253,964,315.79</b>	<b>194,260,517.72</b>	<b>171,587,885.74</b>
<b>Paragraph 4.2 - Alternative Payment of a Greater Amount</b>							
17% of Net Total Annual Revenue	30,919,797.89	28,209,243.87	41,534,522.38	50,693,037.42	43,173,933.68	33,024,288.01	29,169,940.58
Less: Minimum Annual Payment	25,000,000.00	27,000,000.00	30,000,000.00	33,000,000.00	45,000,000.00	44,000,000.00	42,000,000.00
<b>Amount Due to NMISF</b>	<b>5,919,797.89</b>	<b>1,209,243.87</b>	<b>11,534,522.38</b>	<b>17,693,037.42</b>	<b>(1,826,066.32)</b>	<b>(10,975,711.99)</b>	<b>(12,830,059.42)</b>

### 3. 25% Benefit - Voluntary Payment

The Government has remitted \$12.9 million to the Settlement Fund for the FY 2023 25% benefit payments. *See Accounting of 25% Payments by CNMI Government FY 2022-FY 2023*, attached hereto as **Exhibit 4**. The Government has voluntarily made the 25% benefit payments under the Settlement Agreement through October 15, 2023. The current FY 2024 CNMI Budget did not provide for 25% benefit payments. Without a provision in the FY 2024 CNMI Budget for the 25% benefit payments equal to \$12.2 million, there does not appear to be

funding available to cover the 25% benefit payment. Governor Arnold Palacios and the Legislature will need to determine whether the Government can find a funding source for the 25% benefit payments.

#### 4. Employer Contributions (“ER Contributions”)

The Government and its Autonomous Agencies are required to submit ER contributions after each pay period pursuant to Section 5.0 of the Settlement Agreement. The ER contributions received in FY 2023 are presented in **Chart 3** below.

**Chart 3**

Agency	Applicable ER Rate	FY 2014	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
		ER Payments Received						
CNMI Government - Local	30%	\$ 625,298.77	\$ 532,619.71	\$ 529,237.42	\$ 432,683.65	\$ 367,268.53	\$ 411,855.67	\$ 426,428.91
CNMI Government - Federal	37.3909%	\$ 47,752.34	\$ 21,229.43	\$ 8,245.14	\$ 72,890.77	\$ 56,650.13	\$ 105,338.99	\$ 77,778.99
Commonwealth Health Care Corporation (“CHCC”)	37.3909%	\$ 62,499.37	\$ 354,270.69	\$ 285,050.37	\$ 241,536.86	\$ 312,720.83	\$ 190,662.23	\$ 167,248.03
Public School System (“PSS”)	37.3909%	\$ 487,925.99	\$ 571,473.47	\$ 485,746.04	\$ 373,879.57	\$ 397,238.14	\$ 428,926.07	\$ 356,998.67
Northern Marianas College (“NMC”)	20%	\$ 88,272.88	\$ 82,170.52	\$ 60,804.11	\$ 61,451.13	\$ 61,839.51	\$ 65,843.74	\$ 57,478.96
Commonwealth Utilities Corporation (“CUC”)	30%	\$ 175,776.41	\$ 178,807.38	\$ 264,437.09	\$ 156,271.19	\$ 132,142.81	\$ 167,620.99	\$ 158,453.49
Commonwealth Development Authority (“CDA”)	30%	\$ 66,371.02	\$ 82,127.00	\$ 76,413.17	\$ 66,858.27	\$ 69,758.55	\$ 68,968.81	\$ 72,666.07
Commonwealth Ports Authority (“CPA”)	30%	\$ 43,262.67	\$ 26,285.56	\$ 28,358.87	\$ 24,932.40	\$ 22,344.20	\$ 29,524.24	\$ 10,278.81
Tinian Gaming Casino Commission (“TGCC”)	37.3909%	\$ -	\$ 4,314.32	\$ 4,314.32	\$ -	\$ -	\$ -	\$ -
Tinian Mayor’s Office (“TMO”)	37.3909%	\$ 21,916.86	\$ -	\$ -	\$ -	\$ 8,846.65	\$ -	\$ -
<b>TOTAL</b>		<b>\$ 1,619,076.31</b>	<b>\$ 1,853,298.08</b>	<b>\$ 1,742,606.53</b>	<b>\$ 1,430,503.84</b>	<b>\$ 1,428,809.35</b>	<b>\$ 1,468,740.74</b>	<b>\$ 1,327,331.93</b>

The ER contribution rate is 37.3909% for the CNMI (federal), CHCC, PSS, Tinian Gaming Casino Commission, and Tinian Mayor’s Office. The ER contribution rate for five of the agencies is less than the standard 37.3909% rate: the CNMI (local) pays 30%, NMC pays 20%, CUC pays 30%, CDA pays 30%, and CPA pays 30%.<sup>3</sup>

The following government agencies are relatively current in paying their ER contributions:

<sup>3</sup> The Court’s March 10, 2016 Order held that the lower ER rate applied to NMC because the lower rate was the rate NMC had been paying as of June 26, 2013. ECF No. 756.

- CHCC is current through September 9, 2023.
- The Government and NMC are current through September 23, 2023.
- CDA and CPA are current through October 7, 2023.

With respect to the CUC, the Settlement Fund and the CUC have reached a settlement regarding the CUC's outstanding ER balance of \$3,469,797. CUC has shared its financial statements with the Settlement Fund, and based on the financial projections, the parties agreed that CUC can afford to pay \$50,000 per month until the balance is paid in full. Interest, at the rate of 5% per annum, will accrue on any late payments. *See Section IV* below.

There is a dispute with the PSS regarding ER contributions and employee withholdings due from 23 Class Members. Specifically, in June 2021, December 2021, and November 2022, the PSS paid "retention incentive bonuses" to 23 Class Members totaling \$332,789.86.<sup>4</sup> This was an average of \$14,469 bonus paid per Class Member. The employee's (member) portion owed is \$35,124.22, and the ER contributions owed to the Settlement Fund is \$124,433.12, for a total of \$159,557.34. PSS' stated position is that it is not required to withhold nor is it required to pay ER contributions for the bonuses because 1 CMC § 8313(o) excludes "any kind of bonus salary" from the definition of "salary," so these bonuses are excluded from computing ER contributions. Notwithstanding PSS' stated position regarding the bonus payment, PSS issued W-2's to the 23 Class Members who received bonuses and included the "retention incentive

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<sup>4</sup> The Settlement Fund was informed the source of funds for the bonuses was through federal funding which the Department of Education treated as "extraordinary income" and because of this, PSS elected not to account for ER contributions from these bonuses. The Settlement Fund is investigating, among other things, the source of federal funding, and in furtherance of this investigation, the Settlement Fund sent an Open Government Act request to PSS on September 27, 2023. To date, the PSS has not responded to the Open Government Act request, and the ten-day response time has elapsed. *See* 1 CMC § 9917(a). The Trustee has also contacted the PSS Commissioner to meet about these concerns.

bonus” amounts in Box 1 of the W-2 tax form where the amount of “gross wages” paid to the employee is indicated.

The Settlement Fund disagrees with PSS. Bonus income, however it is characterized, is taxable gross income under the Internal Revenue Code (“IRC”) and bonuses, by definition, are included in the calculation of gross income under the IRC.<sup>5</sup> The CNMI tax code mirrors the IRC. *See* Art. VI, § 601(a) of the *Covenant to Establish a Commonwealth of the Northern Marianas* (“The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.”).

Furthermore, Section 5 of the Settlement Agreement, which is an Order of the Court, mandates that “[a]fter Final Approval ... the CNMI and Autonomous Agencies shall make supplemental payments to the Settlement Fund in the amount of the employee contributions for these Settlement Class Members at the same contribution rates they were paying as of June 26, 2013.” *Settlement Agreement* § 5, ECF No. 368-1. This requirement is also consistent with 1 CMC § 8362(b), which requires autonomous agencies to “contribute a similar amount as the government contribution rate of the **gross salary** or wages of its active employees to the Fund on behalf of its employees.”

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<sup>5</sup> The IRC defines “Gross income” as “all income from whatever source derived, including (but not limited to) . . . compensation for services, including fees, commissions, fringe benefits, and similar items.” 26 I.R.C. § 61(a)(1). Courts have described gross income under § 61 as including “compensation for services, such as wages, salaries, and bonuses[.]” *Durland v. Commissioner of Internal Revenue*, Nos. 27534-10, 28396-10, 112 T.C.M. (CCH) 37, 61 (Tax Ct. July 19, 2016) (emphasis added); *see Leyshon v. Commissioner of Internal Revenue*, No. 14071-11, 104 T.C.M. (CCH) 243, at \*2 (Tax Ct. Aug. 28, 2012). This finding is buttressed by the Internal Revenue Service’s regulations governing definitions of gross income, adjusted gross income, and taxable income which states that “[w]ages, salaries . . . bonuses (including Christmas bonuses) . . . are income to the recipients unless excluded by law.” 26 C.F.R. § 1.61-2; *see Hatch v. Commissioner of Internal Revenue*, 103 T.C.M. (CCH) 1243 (Tax Ct. Feb. 23, 2012). Section 8362 plainly identifies the source to be “gross salary or wages,” which therefore includes bonus payments.

Because the bonuses paid to PSS employees are taxable gross income, PSS must pay its requisite share of the ER contribution equal to 37.3909% of the gross income and the 23 PSS employees will need to pay the employee share.

### C. AUDITS OF MEMBER FILES

#### 1. Benefit Software

As of March 13, 2015, potential overpayments and underpayments to members determined by the benefit software were broken down as follows:

	Overpayment		Underpayment	
<b>Class 1</b>	75 members	\$617,293	33 members	\$58,201
<b>Class 2</b>	193 members	\$820,068	80 members	\$209,182
<b>Disability</b>	8 members	\$56,448	11 members	\$63,143
<b>TOTAL</b>	<b>276 members</b>	<b>\$1,493,809</b>	<b>124 members</b>	<b>\$330,526</b>

The purpose of the benefit software was to narrow the number of potential over/under payments. The list of combined over and under payments would be audited. The audit / review process is broken down below:

Audit Stages
<b>Stage 1</b> – File is reviewed to identify issues pertaining to under/overpayment and to ensure all supporting documents are available.
<b>Stage 2</b> – Data is recomputed by Member Services staff in accordance with the applicable laws and regulations governing the member’s annuity calculation.
<b>Stage 3</b> – File is forwarded to Member Services Manager for recalculation and final review.
<b>Stage 4</b> – 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.
<b>Stage 5</b> – 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.

The audit prioritized the underpayments to Class Members. As of September 30, 2023, the Settlement Fund completed 108 of the underpayment files, with 16 remaining. Of the 276 overpayments files, 143 have been reviewed, with 133 remaining to be audited.

	<b>Overpayment</b>		<b>Underpayment</b>	
<b>Class I</b>	16 members	\$167,973	10 members	\$18,580
<b>Class II</b>	117 members	\$1,823,482	6 members	\$15,750
<b>Disability</b>	0 members	\$ -	0 members	\$ -
<b>TOTAL</b>	<b>133 members</b>	<b>\$1,991,455</b>	<b>16 members</b>	<b>\$34,330</b>

Of the audited files completed to date, three (3) of the files were determined to contain no issues.

## **2. Priority Audits**

In addition to the audits of the 152 member accounts identified by the benefit software discussed above, the Settlement Fund conducts audits of other member files that are required when certain triggering events occur, such as: (a) the death of a retiree, (b) a new application for retirement or survivor's benefits, (c) a retiree's return to government service or reinstatement of retirement benefits upon termination of government reemployment, (d) pending administrative appeals that were transferred to the Settlement Fund under the Settlement Agreement and new administrative appeals, and (e) pending probate matters. Due to the time sensitive nature of certain audits, the Settlement Fund has prioritized the review of these member files.

As of September 30, 2023, audits of 112 member accounts were completed. The results of the audit determined that 28 did not have any payment issues. Of the remaining 84 files, 60 files contain payment issues, and 10 files are pending legal review. Fourteen of the files with payment issues are at stage 3. The remaining 60 accounts with payment issues are broken down as follows:

	<b>Overpayment</b>		<b>Underpayment</b>		<b>Underpayment of Contributions</b>	
<b>Class I</b>	10 members	\$11,777.99	2 members	\$5,874.46	3 members	\$5,283.95
<b>Class II</b>	40 members	\$579,881.45	3 members	\$23,277.02	2 members	\$25,137.42
<b>TOTAL</b>	<b>50 members</b>	<b>\$591,659.44</b>	<b>5 members</b>	<b>\$29,151.48</b>	<b>5 members</b>	<b>\$30,421.37</b>

Of the 50 members with an overpayment, 44 have received adverse decision letters, and the remaining six members will be receiving adverse decision letters shortly.

In the last Report of the Trustee (ECF No. 842), we reported 16 files pending legal review. An additional two files were pending at the time. Since then, five (5) have been determined to contain no payment issues. Of the remaining 13 files, two are at stage 3, and five are pending legal review. The results of the 6 files reviewed are as follows:

	<b>Overpayment</b>		<b>Underpayment</b>	
<b>Class I</b>	1 member	\$2,066.72	0 members	\$ -
<b>Class II</b>	4 members	\$472,254.83	1 member	\$2,475.65
<b>TOTAL</b>	<b>5 members</b>	<b>\$474,321.55</b>	<b>1 member</b>	<b>\$2,475.65</b>

The five members have received adverse decision letters, and the member with the underpayment has agreed to enter into a payment plan.

#### **D. CONSULTANTS**

The Settlement Fund has engaged Wilshire Investments as its investment consultant, Milliman Inc. as its actuary consultant and Ernst & Young as its auditor.

**1. Investment Advisor**

Maggie Ralbovsky, a principal of Wilshire, continues to provide investment advice to manage the Settlement Fund's investment portfolio. Wilshire's contract was renewed for FY 2024. The Settlement Fund pays a fixed fee of \$145,000 per year. There was no increase in the flat fee charged from the previous year.

**2. Actuary**

Milliman, Inc. has acted as the Settlement Fund's actuary since March 2015. For FY 2018 through FY 2023, the Settlement Agreement requires 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 at 10. Milliman's FY 2022 Actuarial Valuation Report is attached as **Exhibit 2**.

**3. Auditor**

Ernst & Young LLP ("E&Y") has acted as the auditor for the Settlement Fund. E&Y completed the audits for FY 2021 on September 13, 2022, and FY 2022 on October 17, 2023. A copy of the FY 2021 and FY 2022 audits are attached hereto as **Exhibit 5** and **Exhibit 6**, respectively. The Settlement Fund received a clean audit for FY 2021 and FY 2022.

All consultant reports are available at the Settlement Fund's website at <https://www.nmisf.com/audit-reports/>.

**E. UPDATES REGARDING SETTLEMENT FUND**

Information regarding the Settlement Fund, including but not limited to the Government's payments of MAP and investment reports, are posted regularly on the Settlement Fund website: <https://www.nmisf.com>. The Settlement Fund has published Newsletters to

update its membership on the status of their fund. The Fifth Issue will be published in October 2023. The newsletter will be sent to Class Members electronically and by mail and will be available on the Settlement Fund website.

### III. FINANCIAL REPORT

#### A. FINANCIAL OVERVIEW

##### 1. Sources of Funds

The Settlement Fund receives income from three main sources: (1) the MAP and APGA; (2) contributions; and (3) investments. A breakdown of the sources is shown in the table below.

Since FY 2020, the Settlement Fund has paid the benefit payments from the bi-weekly MAP payments and avoided having to liquidate its investments. For the periods ending on August 31, 2023 and August 31, 2022, the Sources of Funds and Expenses were as follows:

Sources of Funds		
	8/31/2023	8/31/2022
MAP	\$ 31,846,153.84	\$ 32,738,461.56
Contributions	\$ 1,694,237.40	\$ 1,883,569.06
Investments Income	\$ 5,367,639.88	\$ 3,841,717.25
Rental Income	\$ -	\$ -
Other Income	\$ 8,600.72	\$ 7,740.00
	\$ 38,916,631.84	\$ 38,471,487.87
Total Expenses	\$ (36,878,131.56)	\$ (37,782,321.49)
*Realized Gain/(Loss)	\$ -	\$ (4,395,035.75)
Net	\$ 2,038,500.28	\$ (3,705,869.37)

\*The \$4,395,036 realized loss is part of the \$14,043,748.68 realized/unrealized loss to the investment portfolio from FY 2022.

See *Sources of Funds and Expenses for FY 2023*, attached hereto as **Exhibit 7**.

## 2. FY 2023 Performance

A summary of the FY 2023 budget and actual performance for the 11 months ending on August 31, 2023 is presented in **Schedule 1** below. For the period of 11 months ending on August 31, 2023, the Settlement Fund is under the FY 2023 budget by 3.8% or \$1,464,205.

**Schedule 1**  
**FY 2023**  
**Actual Expenses v. Budget Results**

	<b>Actual FY 2023 8/31/2023</b>	<b>FY 2023 Budget 8/31/2023</b>
<b>Benefits Payments (75%)</b>		
Total Benefits Payment	35,468,655	36,254,167
Total Refunds	23,619	34,375
Total Benefits and Refunds Payment	35,492,274	36,288,542
<b>General &amp; Administrative Expenses</b>		
Total Personnel Expenses	819,284	986,992
Total Professional Fees	374,496	795,208
Total General & Admin. Expenses	175,483	250,938
<b>Total Expenses</b>	<b>36,861,537</b>	<b>38,321,680</b>
<b>Total Fixed Assets</b>	<b>3,730</b>	<b>7,792</b>
<b>Total Expenditures</b>	<b>36,865,267</b>	<b>38,329,472</b>

## 3. Proposed FY 2024 Budget

The Settlement Fund's proposed expenses for FY 2024 is summarized in **Schedule 2** below.

**Schedule 2**  
**FY 2022, FY 2023, & Proposed FY 2024 Budget**

	Approved FY 2022 Budget	Approved FY 2023 Budget	Proposed FY 2024 Budget	FY 2024 increase/ (decrease)	% (+/-) from previous budget
<b>Benefits Payments</b>					
Total Benefits Payment	40,965,000	39,550,000	39,050,000	(500,000)	-1.26%
Total Refunds	55,000	37,500	155,000	117,500	313.33%
Total Benefits and Refunds Payment	41,020,000	39,587,500	39,205,000	(382,500)	-0.97%
<b>General &amp; Administrative Expenses</b>					
Total Personnel Expenses	932,257	1,076,720	1,073,775	(2,945)	-0.27%
Total Professional Fees	815,000	867,500	717,000	(150,500)	-17.35%
Total General & Admin. Expenses	291,750	273,750	359,750	86,000	31.42%
<b>Total Expenses</b>	<b>43,059,007</b>	<b>41,805,470</b>	<b>41,355,525</b>	<b>(449,945)</b>	<b>-1.08%</b>
<b>Total Fixed Assets</b>	<b>8,500</b>	<b>8,500</b>	<b>8,500</b>	<b>-</b>	<b>0.00%</b>
<b>Total Expenditures</b>	<b>43,067,507</b>	<b>41,813,970</b>	<b>41,364,025</b>	<b>(449,945)</b>	<b>-1.08%</b>

See Exhibit 8, detailed breakdown of the proposed budget for FY 2024.

The projected expenditures for FY 2024 are \$41,364,025, which is a reduction of 1.08% from FY 2023 approved budget. The most significant expense increase for FY 2024 is the allocation of refunds to Class Members and costs related to planned building repairs and maintenance.

- Refund of contributions                      \$155,000 (increase of \$117,500 or 313.33%)
- Repairs & Maintenance                      \$150,000 (increase of \$90,000 or 150%)

The increase in budget of \$155,000 for Class Member refunds will cover refunds of overpaid interest caused by the incorrect calculation of interest due from Class Members by the NMI Retirement Fund. The NMI Retirement Fund applied compound interest instead of simple

interest for approximately 21 Class I members who paid the actuarially determined equivalent of Class II member contributions in order to retire without penalty pursuant to P.L. 13-60. The Class Members will be paid after completion of the audit of member files.

The additional \$150,000 for the repairs and maintenance budget will cover the planned Settlement Fund building repainting cost and maintenance required for the parking stalls and elevator overhaul. Construction labor and cost of services have increased due to inflation as well as the labor shortage in the CNMI.

## **B. INVESTMENT REPORT**

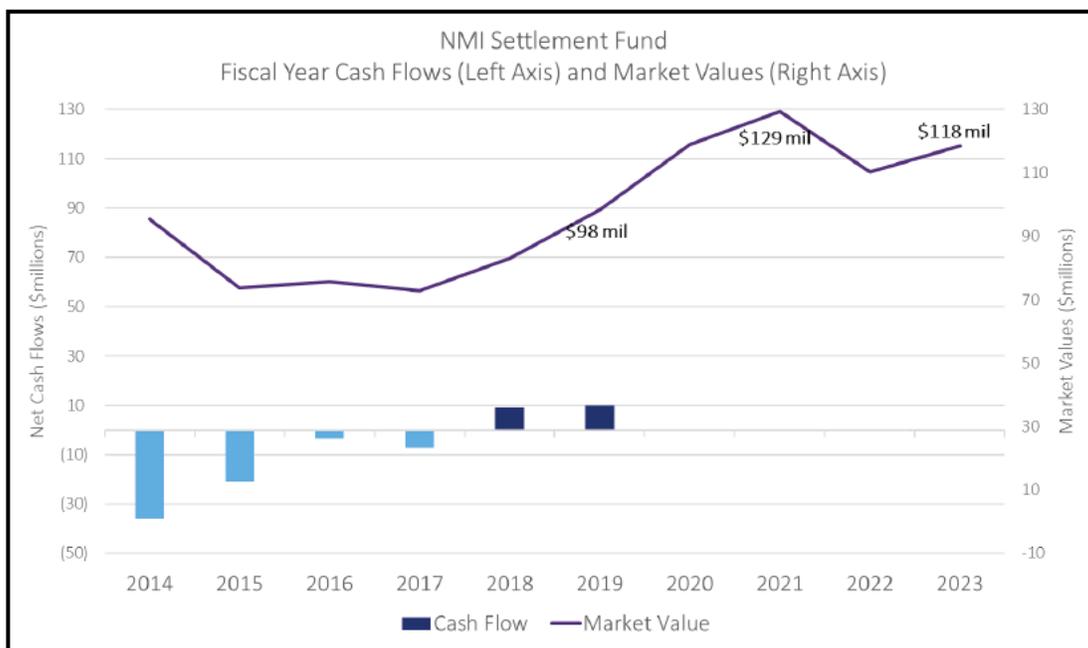
### **1. Investments and Policy**

In the past 10 years, the Settlement Fund's Investment Policy had four major phases.

- In 2013, the portfolio was 100% in bonds as the Fund assessed its liquidity needs and ramped up operations.
- From 2014 to 2018, the Fund followed a glidepath policy, with the majority of its assets in bonds and a small portion in the equity market, further diversifying through high-yield bonds. The glidepath approach was based on the expectation that the Settlement Fund might follow a trajectory of depletion as large negative cash flows occurred each year. During this phase, the Settlement Fund worked on extending its expected life to avoid depletion, seeking support and cooperation from the Government.
- From 2018 to 2021, due to improved market outlook and continued support from the Government, a more confident Fund trajectory was developed. The Fund increased its allocation to equities, resulting in higher expected returns.
- At the beginning of 2022, the significant Federal Reserve monetary injection, combined with unprecedented government fiscal stimulus during the 2020 COVID crisis, materially changed the forward-looking economic outlook. Spiking inflation and a precipitous rise in bond yields led the Fund to re-assess the future investment paradigm. Wilshire concluded that these changes are secular in nature and will gradually intensify. As a result, the Fund changed its Investment Policy to reduce allocation to nominal bonds (as opposed to real bonds which are inflation protected) and initiated a 25% allocation to a diversified Real Assets investment. Nominal bonds

tend to perform poorly during an environment with elevated inflation, while real assets tend to outperform.

Since the last Court hearing in 2022, the Settlement Fund had a Fiscal Year Return (10/2/2022 – 9/30/2023) of 7.41%, outperforming the policy benchmark by 0.26% net of fees and expenses. This was achieved despite a volatile market caused by persistently high inflation and a very hawkish Federal Reserve. This result was aided by the recent inclusion of Real Assets, which significantly outperformed nominal bonds in this environment.



Looking forward, we expect multiple global conflicts to intensify, both in the form of military aggression and economic warfare. These uncertainties may disrupt the global supply chain further and cause spikes in the prices of commodities. Furthermore, Wilshire anticipates that the U.S. issuance of Treasuries to finance fiscal deficits will outpace historical records, potentially leading to further increases in long-term bond yields due to supply/demand imbalances. This environment will challenge financial asset returns and favor real assets even

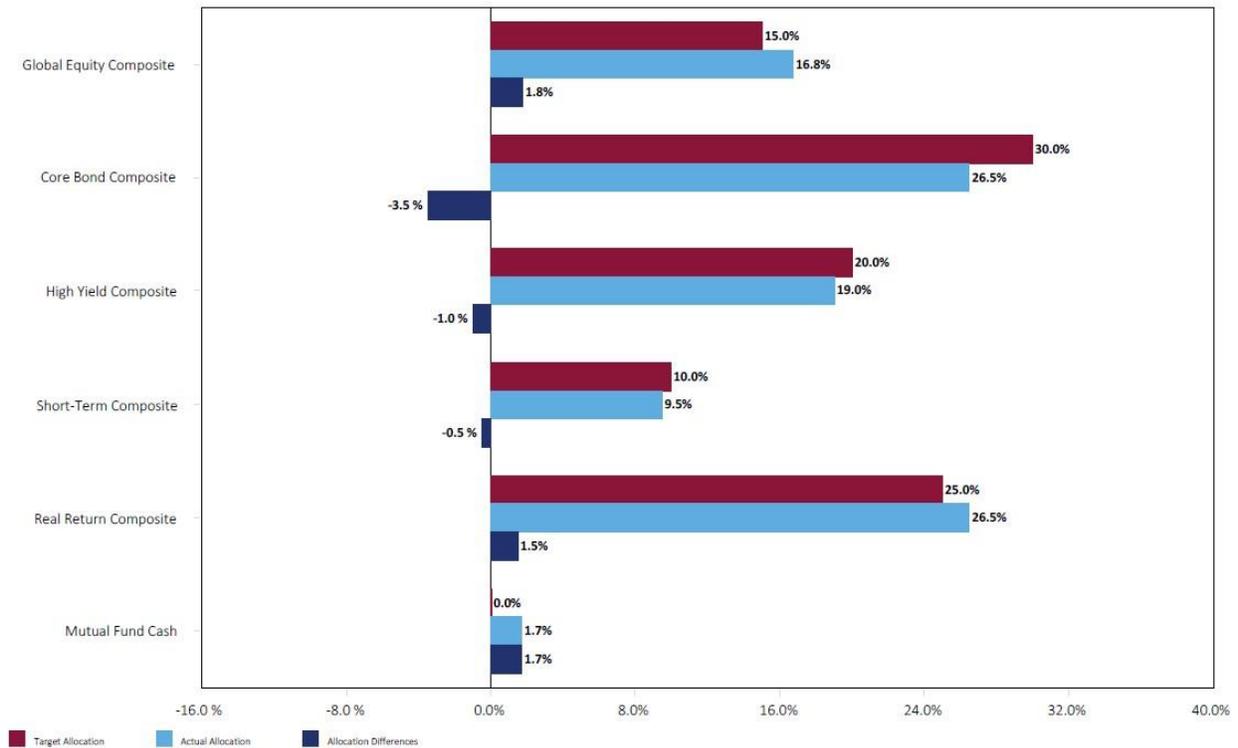
more. Based on this cautious outlook, Wilshire reiterates its conviction of an overweight position in Real Assets, as the Settlement Fund currently holds.

**2023 – 2024 Portfolio Targets**

<b>Equity</b>	15%
<b>High Yield</b>	20%
<b>Core Bond</b>	30%
<b>Short Term Bond</b>	10%
<b>Diversified Real Return</b>	25%
<b>Expected Return</b>	5.75%
<b>Expected Risk</b>	6.10%

**Note: Based on Wilshire’s 2023 mid-year updated capital markets outlook.**

As of September 30, 2023, the Settlement Fund’s actual allocation is within the policy range of the targets:



## 2. Settlement Fund Portfolio Performance

Before the pandemic (end of FY 2019), the Settlement Fund's portfolio balance was \$98,260,000. The financial markets underwent a significant paradigm shift since that time. As the pandemic hit in 2020, at first, liquidity in the market froze due to a broad-based economic shutdown. Then, the Federal Reserve flooded the market with unprecedented liquidity, causing asset bubbles to form. By the end of 2021, however, inflation began to spike and reached close to double digits during 2022. With the Federal Reserve hastily withdrawing liquidity at a historic pace, the financial markets experienced an unprecedented year of drawdown, with both stocks and bonds suffering double-digit negative returns.

Against this backdrop, the Settlement Fund's investments experienced an \$18 million drawdown for FY 2022. However, since then, the addition of an allocation to Real Assets has further diversified the Settlement Fund's investments and helped it recover during FY 2023, despite the ongoing fight against inflation and elevated geopolitical tensions. The Settlement Fund closed FY 2023 with a net positive gain of \$20.2 million compared to pre-pandemic levels. As of the end of September 2023, the Settlement Fund's portfolio balance stood at \$118,461,887.

A summary of the FY 2022 and FY 2023 investment reports, showing the beginning and ending investment balances, contributions, gains and losses, and fees, are shown in **Chart 4** and **Chart 5** below.

**Chart 4**

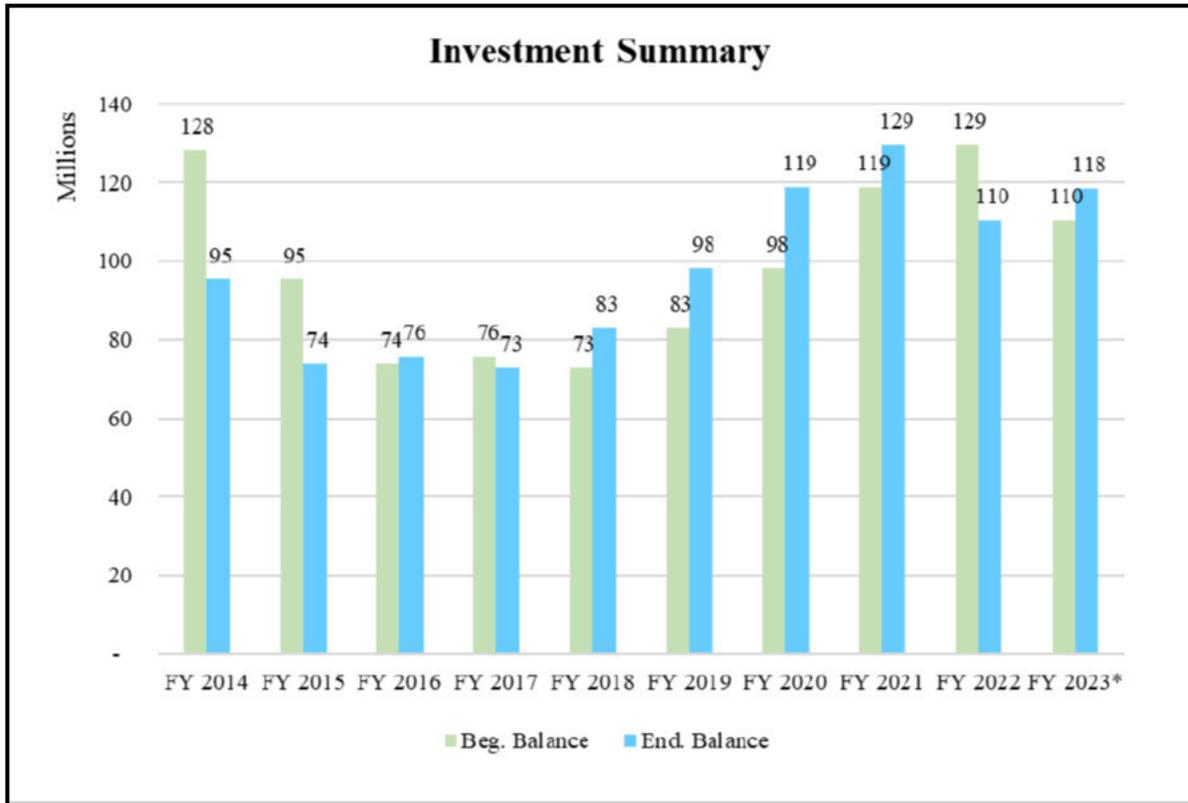
Investment Summary FY 2022						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
<b>1st Quarter</b> (Oct. - Dec. 2021)	\$ 129,393,294	\$ -	\$ (18,040)	\$ 1,734,252	\$ -	\$ 131,109,506
<b>2nd Quarter</b> (Jan. - Mar. 2022)	\$ 131,109,506	\$ -	\$ (17,756)	\$ (6,444,262)	\$ -	\$ 124,647,489
<b>3rd Quarter</b> (Apr. - June 2022)	\$ 124,647,489	\$ -	\$ (16,958)	\$ (10,022,513)	\$ -	\$ 114,608,018
<b>4th Quarter</b> (July - Sept. 2022)	\$ 114,608,018	\$ -	\$ (16,481)	\$ (4,241,888)	\$ -	\$ 110,349,648
		\$ -	\$ (69,235)	\$ (18,974,411)		

See Flash Reports for August and September 2022, attached hereto as **Exhibit 9**.

Investment Summary FY 2023						
	Beg. Balance	Net Contributions	Distributions & Adm Fees	Investment Gains/Losses	Inv. Fees	End. Balance
<b>1st Quarter</b> (Oct. - Dec. 2022)	\$ 110,349,648	\$ -	\$ (15,872)	\$ 4,621,100	\$ -	\$ 114,954,876
<b>2nd Quarter</b> (Jan. - Mar. 2023)	\$ 114,954,876	\$ -	\$ (16,360)	\$ 3,368,276	\$ -	\$ 118,306,792
<b>3rd Quarter</b> (Apr. - June 2023)	\$ 118,306,792	\$ -	\$ (16,529)	\$ 1,538,684	\$ -	\$ 119,828,948
<b>4th Quarter</b> (July - Sept. 2023)	\$ 119,828,948	\$ -	\$ (16,842)	\$ (1,350,220)	\$ -	\$ 118,461,887
		\$ -	\$ (65,603)	\$ 8,177,840		

See Flash Reports for August and September 2023, attached hereto as **Exhibit 10**.

The Settlement Fund portfolio balances from inception (FY 2014) to September 30, 2023, is shown in the chart below.



The Wilshire monthly and quarterly investment reports are available on the Settlement Fund website: <https://www.nmisf.com/investment-consultant-reports-2/>.

#### IV. LITIGATION STATUS

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**A. *NMI Settlement Fund v. Commonwealth Utilities Corporation*, Civil Action No. 11-0114-CV (NMI Superior Court)**

The claims filed against the CUC arose from the CUC's failure to pay its share of ER contributions due to the NMI Retirement Fund in FY 2008 through the date of the complaint—May 5, 2011. As of April 29, 2011, the CUC owed approximately \$3,175,255. The claims were identified as an asset to be transferred to the Settlement Fund in the Settlement Agreement. *See Settlement Agreement* §§ 1.1, 8.0, 29.0(b), ECF No. 468-1 at 4-5, 16, 34-36.

The parties have settled this case for \$3,469,797 and have executed a settlement agreement, subject to this Court's approval. Under the settlement agreement, CUC is obligated to pay to the Fund a minimum of \$50,000 per month until the settlement amount is paid in full. On June 14, 2023, the Settlement Fund filed a copy of the Settlement Agreement in this case for the Court's consideration. *See* ECF No. 860.

**B. *In re Estate of Manuel B. Villagomez*, Civil Action No. 20-0123-CV (NMI Superior Court)**

In November 2021, the Settlement Fund filed a Notice of Claim against the Estate of Manuel B. Villagomez for the overpayment of retirement benefits in the amount of \$56,913.77 in the NMI Probate Court. At a status conference on the Settlement Fund's Notice of Claim in January 2022, the Estate Administratrix requested an order from the Probate Court declaring that the NMI Superior Court has jurisdiction over the pending administrative appeal involving Mr. Villagomez and refused to comply with the Settlement Fund Administrative rules. Because the Administratrix raised jurisdictional and substantive issues involving the Settlement Agreement's mandate that all Settlement Fund claims be adjudicated in accordance with the administrative

appeals process, the Settlement Fund filed an *Ex Parte* Emergency Motion Under Local Rule 7.1(f) for Declaratory Relief, Stay, and Injunctive Relief (“Emergency Motion”) in the *Betty Johnson* case, seeking a declaration that this Court retained exclusive jurisdiction over any matters pertaining to or arising under the Settlement Agreement; an order staying all proceedings by any court outside this Court from issuing orders adjudicating rights and liabilities of Settlement Fund or its members pertaining to the Settlement Agreement; and enjoining the Administratrix from asserting any claims or defenses, or seeking any relief related to the Settlement Agreement and the Settlement Fund’s claim against Mr. Villagomez in any court other than this Court.

In December 2022, the Court granted the Emergency Motion, *see* ECF No. 819, holding that the administrative process in the NMISF Appeal Rules and Procedures is the exclusive remedy for resolving disputes between Settlement Class Members and the Settlement Fund; finding that the probate exception, a limited exception to federal jurisdiction that reserves probate or annulment of a will and the administration of the probate estate to state probate courts, does not apply; ordering the Administratrix to proceed with the administrative appeals process; and enjoining the Administratrix from taking action in the Probate Court that challenges the Settlement Fund’s claim until the administrative appeals process has been exhausted. The parties have since settled the claim.

**C. *Rosa A. Camacho v. NMI Settlement Fund*, Civil Action No. 23-16074 (9th Cir.)**

This matter involves an administrative appeal filed by Class Member Rosa A. Camacho (“Ms. Camacho”), who claimed an underpayment of benefits from the Settlement Fund because the Settlement Fund did not make Cost of Living Adjustment (“COLA”) payments. Because the issue involves jurisdictional and legal issues relating to the interpretation of the Settlement

Agreement, on December 7, 2022, the Settlement Fund filed a Motion to Enforce and Confirm “Full Benefit Payments” and “Full Benefits” in the Settlement Agreement, seeking to: enforce the Settlement Agreement against Ms. Camacho; confirm that the Settlement Fund is not required to pay COLA based on the definition of “Full Benefit Payments” and “Full Benefits” in the Settlement Agreement; enjoin Ms. Camacho from asserting claims or defenses, or relief relating to the terms of the Settlement Agreement through the administrative process in the Appeal Rules and Procedures; and enjoin Ms. Camacho from pursuing action inconsistent with the Settlement Agreement or the exclusive jurisdiction of the Court. Ms. Camacho filed a Cross-Motion to Enforce and Confirm “Full Benefit Payments” and “Full Benefits” in the Settlement Agreement, arguing that “Full Benefits” include COLA and the overtime/compensatory time hours, which were included as credited service in computing her retirement benefits.

In July 2023, the Court granted the Settlement Fund’s Motion and denied Ms. Camacho’s Cross-Motion (ECF No. 861). The Court confirmed that “Full Benefit Payments” and “Full Benefits” in the Settlement Agreement do not include COLA, and the Settlement Fund is not required to pay COLA unless appropriated by the legislature. The Court further ordered that Ms. Camacho raise the issue relating to overtime-compensatory time through the administrative appeals process.

Since then, Ms. Camacho appealed the Order with respect to COLA to the Court of Appeals for the Ninth Circuit—Case No. 23-16074, which is pending briefing and a hearing. The administrative appeal remains pending before the Hearing Officer.

**D. ADMINISTRATIVE APPEALS**

The Administrative Appeals Process, which is governed by the NMISF Appeal Rules and Procedures, was implemented to resolve all disputes between individual members and the Settlement Fund. *See* Order, ECF No. 739. The Appeals Process involves three stages: (1) Mandatory Mediation, (2) Appeal to Hearing Officer (if mediation is unsuccessful), and (3) Appeal to an Independent Arbitrator (final appeal). *See* NMI Settlement Fund Appeal Rules and Procedures, ECF No. 731-14. As of September 30, 2023, there are 105 pending administrative cases. A summary of pending administrative cases is provided in **Exhibit 11**, attached.

**1. Appeals Pending Mediation / Settled Cases**

On December 21, 2021, the Honorable Daniel P. Collins, U.S. Bankruptcy Judge for the District of Arizona, was appointed to serve as mediator for all pending administrative cases. *See* Order, ECF No. 813 at 2. Judge Collins' experience and ability to communicate and work with retirees has contributed to the success of mediation. Since Judge Collins' appointment, the Settlement Fund has settled six cases. A list of cases settled at mediation is attached hereto as **Exhibit 12**. Of the six cases, three require Court approval of the settlement repayment term, which exceeds the two-year limitation set forth in 1 CMC § 8390(b) based on the financial circumstances of the appellants.

Through the efforts of the Settlement Fund attorneys, 72 cases have settled outside of formal mediation. A list of these cases is provided in **Exhibit 13**, attached.

**2. Hearings Before Hearing Officer**

On July 11, 2022, the Court issued an order approving the appointment of attorney Deborah Fisher as the hearing officer. *See* Order re Approval of Hearing Officer, ECF No. 840.

Two appeals were assigned to her. One appeal was decided, and a decision is pending on the other appeal. *See* **Exhibit 11**.

## V. STATUS OF LEGISLATION

The Legislature considered several bills that may affect the Settlement Fund and its members. The proposed bills are available at [www.cnmileg.net/](http://www.cnmileg.net/).

Below is a summary of new bills that affect Class Members.

	<b>BILL / INITIATIVE / RESOLUTION</b>	<b>STATUS</b>
<b>BONUS</b>	<b>Senate Resolution 23-10</b> Requests Governor Palacios to reserve funds to provide a retiree bonus or COLA to be distributed equally to all Settlement Class members and CNMI Fund members receiving an annuity.	Pending with the Senate.
<b>FUNDING</b>	<b>House Bill 23-31, HS1, SS2, CCS1</b> To repeal and re-enact P.L. 22-22 in order to make revised appropriations for FY 2023.	Signed into law on August 25, 2023, as P.L. 23-04.
	<b>House Bill 23-66, HS1, SS2, CCS1</b> To appropriate funds for the operations and activities of the Government for FY 2024, including the \$34 million FY 2024 MAP obligation and \$34,295 for Group Health and Life Insurance for retirees.	Signed into law on September 30, 2023, as P.L. 23-09.
	<b>House Concurrent Resolution 23-2, SS1, CCS1</b> To identify revenues and resources for FY 2024, including the FY 2024 MAP obligation.	Adopted by the House.
	<b>Senate Joint Resolution 23-02</b> Requests Governor Palacios to task the Division of Revenue and Taxation to collect all Business Gross Revenue Tax owed to the Government in an effort to prioritize mandatory payments, including the retiree benefit payments.	Adopted by the Senate.
<b>GROUP HEALTH AND LIFE</b>	<b>Senate Bill 23-05, SS1</b> To repeal 1 CMC §§ 8421-8424 in its entirety and transfer the administration of the GHLI	Pending action by the House.

<b>INSURANCE (“GHLI”)</b>	from the Department of Finance to the Office of Personnel Management.	
<b>MARRIAGE CERTIFICATE REQUIREMENTS</b>	<b>House Bill 23-10, HD1</b> To amend 8 CMC § 1204 to create an exemption to the requirement that a marriage certificate include the “places of residence” if it was executed during the Trust Territory of the Pacific Islands.	Signed into law on April 10, 2023, as P.L. 23-03.
<b>NEW RETIREMENT PLAN</b>	<b>Senate Bill 23-01</b> To create a CNMI Term Pension Plan, which will be partially funded by deficient ER contributions collected pursuant to Section 8.1 of the Settlement Agreement.	Pending further action by the Senate.

The Settlement Fund will continue to monitor and report on bills, which affect the Settlement Fund and Class Members.

Respectfully submitted this 18th day of October 2023.

**CIVILLE & TANG, PLLC**

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 Joyce C.H. Tang  
 Trustee