

May 9, 2011

## Day Pitney Teams with New Mexico Attorney General in Pursuing Lawsuits Arising from "Pay-to-Play" Investment Scheme Involving the \$15 Billion New Mexico Permanent Funds

On May 6, 2011, the New Mexico State Investment Council ("SIC"), the trustee for New Mexico's \$15 billion Permanent Funds, filed lawsuits in both federal and state district courts, seeking to hold multiple individuals and a partnership accountable for their role in "pay-to-play" and kickback schemes involving the SIC during the period 2003 to 2009. The suits seek monetary damages and recovery of ill-gotten gains acquired by the defendants at the expense of the New Mexico Permanent Funds.

Day Pitney LLP and the New Mexico Attorney General's Office are serving as co-counsel to the SIC. Day Pitney attorneys Jeffrey Plotkin, [Kenneth W. Ritt](#), [Matthew E. Smith](#), and [Clifford E. Nichols III](#) of the firm's Stamford, Connecticut office, were commissioned by the New Mexico Attorney General as Special Assistant Attorneys General for purposes of the lawsuits.

Day Pitney also represents the New York State Comptroller in civil recovery efforts arising from the pay-to-play scandal involving the \$140 billion New York Common Retirement Fund.

### Summary of Allegations

The SIC is a New Mexico state agency that serves as trustee, administrator and custodian of the Land Grant Permanent Fund ("LGPF") and the Severance Tax Permanent Fund ("STPF") (collectively the "Permanent Funds"), which are creatures of the New Mexico Constitution established for the benefit of the citizens of New Mexico, the real party in interest in the lawsuits.

The LGPF, New Mexico's largest sovereign wealth permanent endowment fund, is funded with income and royalties from the sale and lease of public trust land. The STPF, another sovereign wealth permanent endowment fund, is funded with severance taxes on the extraction of minerals and oil and gas from leases on public lands.

The complaints allege that New Mexico's former State Investment Officer, and the SIC's former private equity adviser, breached their fiduciary duties to the citizens of New Mexico by corrupting the integrity of the SIC's investment process. The complaints allege that these defendants wrongfully caused the SIC to make investments on behalf of the Permanent Funds based on their own selfish interests and the personal, political and financial interests of politically-connected individuals and their associates, rather than based solely on the best interests of the Permanent Funds. The politically-connected individuals,

including a close adviser to former New Mexico Governor Bill Richardson and a number of third-party "placement agents," aided and abetted the breaches of fiduciary duty, and were unjustly enriched as a result.

For more information concerning the lawsuits, see the [press release](#) from the SIC, the separate [federal complaint](#), or the [state complaint](#).