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FILED
Clerk
District Court

APR 17 2012

For The Northern Mariana Islands
By _____
(Deputy Clerk)

*Proposed Counsel to the Debtor
And Debtor-in-Possession*

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NORTHERN MARIANA ISLANDS**

BANKRUPTCY DIVISION

In re:)
)
)
NORTHERN MARIANA ISLANDS)
RETIREMENT FUND,)
)
)
Debtor.)

Chapter 11

Case No. **BK 12-00003**

**DECLARATION OF RICHARD S. VILLAGOMEZ
IN SUPPORT OF FIRST DAY PLEADINGS**

I, Richard S. Villagomez, being fully sworn, hereby declare that the following is true to the best of my knowledge, information and/or belief:

1. I currently serve as the Administrator of the Northern Mariana Islands

Retirement Fund, a public corporation and autonomous agency of the Commonwealth of the Northern Mariana Islands (the "Commonwealth") and the debtor in possession of the above-captioned Chapter 11 case (the "Retirement Fund" or "Debtor"). Debtor receives and invests retirement contributions and pays benefits to or on account of certain retirees of the Commonwealth government, survivors and/or certain disabled persons (together, the "Beneficiaries").

2. I have served as the Debtor's Administrator since August 2010 and previously was employed by Debtor in various positions, as its Deputy Administrator (March 2010 through August 2010), Director of Investments (December 2006 – March 2010), Technical Financial Analyst (February 2002 – December 2006) and Loan Officer (February 2001 – February 2002). Through that service, I have had occasion to become familiar with the Debtor's operations, procedures, history and the efforts of the Board of Trustees to, inter alia, address Debtor's financial difficulties.

3. On the date hereof (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), as well as certain motions and other pleadings (collectively, the "First Day Pleadings") with this Court. I am authorized by the Debtor to submit this Declaration on the Debtor's behalf in support of First Day Pleadings.

4. As discussed more fully below, this restructuring proceeding has been necessitated, inter alia, by chronic underfunding of the Debtor by the Commonwealth and certain of its other autonomous agencies. The Debtor's primary objective in commencing the present Chapter 11 case is to restructure its current obligations to bring them more in line with its current assets and revenues, while maintaining the Debtor's ability to attempt to increase its funding

level, including through continued collection efforts against the Commonwealth. To the extent the Debtor does, in the future, achieve a funding level that would permit it to provide larger, sustainable benefits, it would be the Debtor's intent to do so.

5. Ultimately, the Debtor intends to use the Chapter 11 process as a means to facilitate a meaningful dialogue with its creditors (i.e., primarily the Beneficiaries) in hopes of working collaboratively towards a consensual, if possible, resolution of the current underfunding crisis. To the extent the Debtor is able to address successfully through this case the disparity between its obligations to pay benefits and its ability to pay benefits at the current level, the Debtor believes it will be positioned to continue to fulfill its mandate to provide existing and future Beneficiaries with a sustainable, reliable level of benefits for the duration of the Beneficiaries' lives. If the Debtor is not able to restructure its obligations, I am informed that the Debtor is likely to cease to exist and to be unable to provide the Beneficiaries with any amount of benefits by July 2014.

6. The First Day Pleadings seek the urgent operational and administrative relief necessary to (a) assist the Debtor's transition into Chapter 11; (b) preserve its existence as a going-concern to the fullest extent possible; (c) provide a mechanism to pay some level of benefits pending the Debtor's confirmation of a plan of reorganization and emergence from these proceedings; (d) stay distracting and meritless litigation so as to allow the Debtor and its employees to focus on this restructuring; and (e) ultimately emerge from these proceedings having modified its payment obligations and tied them to its funded level, as determined by Debtor's actuary from time to time, and to be in a position to be able to meet all of its modified obligations to Beneficiaries.

7. I have reviewed the First Day Pleadings, and I believe that the relief

Debtor seeks therein is narrowly tailored and necessary to achieve the goals identified above.

8. In my capacity as Administrator of the Northern Mariana Islands Retirement Fund, I am familiar with Debtor's day to day operations, financial condition, business affairs, investments, and other financial records. Except as otherwise stated herein, all facts set forth in this Declaration are based upon: (a) my personal knowledge; (b) my review of relevant documents; (c) information supplied to me by other members of Debtor's management team and/or professionals and expert advisors retained by Debtor; or (d) my opinion based upon my experience and knowledge of Debtor's operations and financial condition. If I were called to testify, I could and would testify competently to the facts set forth herein.

A. Overview of Debtor's Business.

9. Debtor is a public corporation and autonomous agency of the Commonwealth established pursuant to Public Law 6-17 to provide retirement security and pensions to the employees of the Commonwealth government. Public Law 6-17, codified at 1 CMC §8301 *et. seq.*, established the Commonwealth's defined benefit plan of which there are approximately 2,800 actively employed members and 2,400 retirees. Pursuant to Public Law 15-13, the defined benefit was closed to new members, with subsequent members then enrolled in a defined contribution plan, the assets of which are not held or administered by the Debtor and are not affected by these proceedings.

10. Debtor has had difficulty maintaining healthy funding levels due to a combination of factors, including: the failure of the Commonwealth's central government and autonomous agencies to remit full employer contributions; a difficult investing climate over the most recent three to four years; and a benefit structure that has been continuously increased and made more generous by the Commonwealth government without a corresponding increase in

funding to the Debtor to cover increased costs. These issues have combined to place the fund in a dire financial situation. Compounding this perfect storm, the Commonwealth Government has passed laws declaring payment holidays, diverting earmarked revenues from the Debtor and reducing contribution rates for the Commonwealth Government, its agencies and political subdivisions. As a result, as of the date of Debtor's last actuarial report as of October 1, 2009, Debtor's actuary determined that Debtor's obligation was approximately 38.8% funded. While the Debtor is currently engaged in compiling information necessary for an updated actuarial study, the Debtor estimates that it is currently 32% funded. Debtor's financial condition continues to deteriorate, and, by management's figures, the Debtor will deplete its assets by July, 2014 and thereafter be unable to provide any level of benefits to current and future Beneficiaries.

B. Events Leading up To Commencement of These Proceedings.

11. On August 2, 2006, Debtor sued the Commonwealth for failure to remit employer contributions in accordance with PL 6-17. After granting a default judgment, on June 29, 2009, the Commonwealth Superior Court heard approximately 11 days of testimony and awarded Debtor a judgment against the Commonwealth for the sum of \$231 million. Post judgment, this amount has grown to approximately \$325 million as a result of the Commonwealth's continued underpayment, and the accrual of interest and penalties.

12. Debtor has employed various mechanisms to enforce its judgment against the Commonwealth, including motions for orders in aid of judgment, execution of judgment against unused and abandoned Commonwealth Government property, and has met resistance at every turn.

13. Three years ago, Debtor's actuary and investment consultants advised that Debtor's assets would soon be depleted if additional contributions were not made by the

Commonwealth Government and its political subdivisions. Two years ago, Debtor's actuary and investment consultants advised that additional contributions or reductions in benefits would be necessary or the Fund's assets would soon be depleted. One year ago, Debtor's actuary and investment consultants advised that to save the Retirement Fund, additional contributions and reductions in benefits must be made.

14. On August 26, 2011, the Debtor filed a motion for equitable relief in the Commonwealth Superior Court requesting invocation of the Court's equitable powers to defer pension obligations in an effort to preserve the Debtor. Those proceedings, initially, were delayed when a member of the Board of Directors of the Commonwealth Retirees Association ("CRA"), an intervenor in the Superior Court Action, without CRA authorization filed a notice of removal of the Superior Court action to the United States District Court. Ultimately the matter was remanded and the removing party and his counsel were sanctioned. On or about March 19, 2012, after proceedings recommenced, the Superior Court issued an Order declining to act on Debtor's request, citing the belief that: (a) it was not in the position to reduce the benefits payable to retirees; (b) action would need to be taken by the Board of Trustees, the Legislature, and perhaps a Constitutional amendment; and (c) if benefits are reduced by the Board of Trustees and retirees objected, judicial review would not be available if the Superior Court had been involved. The Superior Court then declined to exercise its equitable powers to effect an adjustment of benefits. The Superior Court then went on to set a deadline of June 15, 2012 for the parties to reach an agreement regarding the Commonwealth's satisfaction of the judgment against it. If the Superior Court is not satisfied with the progress of the parties at that point, petitions for receivership will be permitted and arguments thereon will be heard on June 29, 2012.

15. The Debtor currently is a defendant in proceedings in the United States District Court for the Northern Mariana Islands brought on behalf of Jane Roe and John Doe plaintiffs seeking, inter alia, to have a receiver appointed to address Debtor's financial distress. Debtor's Board of Trustees, management and professionals have carefully considered whether receivership proceedings would be likely to maximize estate value and distributions to all Beneficiaries, and do not believe that a receivership (and the accompanying likely liquidation of the Debtor) would be an appropriate or desirable option. Rather, after careful deliberation, and consideration of all identified alternatives, the Board of Trustees and management have concluded that it is in the best interests of all Beneficiaries for the Debtor to attempt to preserve the Debtor's assets and restructure its obligations under Chapter 11 so as to provide a sustainable level of benefits to the Beneficiaries in perpetuity, while at the same time preserving the Debtor's rights and ability to seek to increase benefit levels, including through further efforts to realize upon the judgment against the Commonwealth and otherwise increase the Debtor's funded level.

16. With the assistance of its actuary, Debtor has calculated that it will exhaust all of its assets on or before July 2014 unless its payment obligations are immediately reduced. The exhaustion of assets would result in a 100% reduction in payments to Beneficiaries. Debtor understands that Beneficiaries rely upon its payments for basic food, clothing and shelter. Accordingly, Debtor must immediately and significantly reduce (but not eliminate) payments to the Beneficiaries. Based upon Debtor's most current actuary study (FY2009) as updated by management to present date, and based on current asset levels, a benefit reduction of 58% is currently required to sustain Debtor as a going-concern.

17. In connection with the Debtor's request before the Commonwealth Superior Court seeking to reduce its benefit payment obligations, the Debtor submitted into

evidence Plaintiff's Exhibits 1 through 6 prepared by its actuary demonstrating the projected life of the Debtor's assets under six different benefit scenarios, attached hereto as Exhibit A. Plaintiff's Exhibit 1 demonstrates that if benefits are not modified the Debtor will have extinguished the entirety of its assets by July 2014.¹ To preserve the Debtor's assets so that the Debtor can continue to pay benefits to all of the Beneficiaries throughout their lives, the Debtor must reduce and/or defer its benefit payments by 58% to a level of 42% as demonstrated in Exhibit 6.²

18. Moreover, Debtor's investment consultant has advised that due to its short life expectancy, Debtor cannot invest even at a moderate level of risk. Its inadequate investment horizon thus dictates that Debtor must be in extremely stable, low yield investments, which further exacerbates Debtor's financial distress in that returns on investments also constitute a source of funding for benefit payments. For example, since January 2011, the stock market has returned 11.6%, but Debtor's required conservative investment approach left it largely unexposed to this market rally. This lack of investment horizon must be addressed to preserve Debtor's investment corpus. Debtor's Board of Trustees has been advised that in order to participate in the stock market so as to receive higher returns, the Debtor needs a minimum horizon of ten (10) years. Immediately restructuring its obligations to allow for this longer investment horizon will allow a more reasonable investment program, which is expected to

¹ The July 2014 projection is based on the following assumptions: (i) the Commonwealth Superior Court will sustain the August 22, 2011 Order setting aside and protecting all employee contributions at its June 29, 2012 review of that Order; (ii) the Commonwealth government will continue remitting employer contributions at \$13 million per annum, a level far below its statutorily-prescribed rate; and (iii) the rate of return on the Debtor's investments will remain fixed at 7.5%.

² This scenario assumes that the \$113 million of employee contributions currently restricted by court order will be available to Debtor. This scenario allows eligible members to continue to retire in future years and there is no need to protect employee contributions, as all members would receive 42% of the benefits to which they are entitled.

accrue to the benefit of all Beneficiaries.

19. The Debtor's goal is to emerge from reorganization in the next four to six months (or sooner if it is possible to quickly build consensus amongst its creditors). If payments to Beneficiaries were to be reduced by 58%, Debtor believes it would be able to move forward with little further reduction. Further, if through additional efforts, the Debtor were able to realize upon its judgment against the Commonwealth, or otherwise improve its level of funding, the Debtor would then be in a position to increase benefits to a higher sustainable level.

20. I believe it is imperative all interested parties be informed that the Debtor is not seeking to eliminate Beneficiaries' right to receive their benefits. Rather, the Debtor has sought Chapter 11 relief in order to align its current payouts with its current funding level, in an effort to preserve its ability to distribute payments beyond 2014. To that end, the Debtor intends to immediately engage with the official committee of unsecured creditors, once formed, to apprise it of the Debtor's situation and engage in a meaningful dialogue as to potential solutions to the problem. In connection with those discussions, the Debtor intends to move quickly towards proposal of a Plan of Reorganization that allows it to make payments going forward that are consistent with its funded level (as such may fluctuate from time to time in the future). This will enable Beneficiaries to continue to receive partial payments as efforts continue to address the Debtor's unfunded liability and increase or restore benefit payments. Without this action, I do not believe there is any hope of sufficient funding to continue meaningful payments to Beneficiaries beyond July 2014.

PART II: FIRST DAY PLEADINGS

21. An important (and in many respects critical) element of the success of this Chapter 11 case will be the entry of Orders granting the relief requested in each of the First Day

Pleadings. Generally, the First Day Pleadings are designed to facilitate: (a) the continuation of benefits to the Debtor's Beneficiaries; (b) reinforcement of the effect of the automatic stay to stay ongoing or potential litigation; (c) the continuation of the Debtor's existing cash management systems and other business operations without interruption; and (d) establishment of certain other administrative procedures to promote a smooth transition into Chapter 11. The factual background in support of each First Day Pleading is provided below:

A. Motion of Debtor For Entry Of Order Pursuant to 11 U.S.C. § 105 Providing for the Continued Payment of Certain Benefits to Beneficiaries (the "Benefits Motion").

22. In the Benefits Motion, the Debtor seeks approval of a proposed Order authorizing the Debtor to continue making certain benefit payments to Beneficiaries throughout the pendency of these Chapter 11 proceedings. The Debtor recognizes that the Beneficiaries rely on those payments for their survival and well-being, specifically, to meet their basic food, clothing, shelter and/or health care needs. Without such payments, many, if not most, of the Beneficiaries would have no alternative means for meeting their basic needs and would be subject to undue hardship.

23. In furtherance of the relief sought through the Benefits Motion, prior to the Petition Date, the Debtor formed Pension Holdings Corporation, a new CNMI corporation (the "Interim Funding Subsidiary"). The Interim Funding Subsidiary has been capitalized with funds sufficient, and the Interim Funding Subsidiary's only purpose is, to satisfy, in full, the Debtor's obligations to Beneficiaries for a period of two (2) months (the "Interim Funding Period"). The Debtor will seek a hearing on the Benefits Motion during the Interim Funding Period, with the goal of obtaining an Order of this Court granting the relief requested in the Benefits Motion and, inter alia, allowing the Debtor to resume benefit payments as discussed in

the Benefits Motion. To the extent such an Order is entered before expiration of the Interim Funding Period, the Interim Funding Subsidiary will be dissolved with all remaining assets then added to the Debtor's estate. The Debtor believes it is critical to ensure that benefits continue to be paid to Beneficiaries pending the Court's consideration of the Benefits Motion.

24. Through the Benefits Motion, the Debtor seeks entry of an Order permitting it to pay from the Debtor's estate, for a period of two (2) months from the Petition Date, the current amount of benefits being paid to Beneficiaries, such that the benefits paid by the Debtor, in conjunction with those paid by the Interim Funding Subsidiary, aggregate to two (2) months of benefits after the Petition Date. The Debtor believes this period of funding will allow Beneficiaries to make any necessary arrangements or adjustments to their own expense structure in anticipation of a potential further reduction in benefit payments.

25. Thereafter, the Debtor reserves the right to, in consultation with the Debtor's professionals and Official Committee of Unsecured Creditors (the "Creditors' Committee"), file one or more subsequent requests with the Court seeking further authority to pay benefits to Beneficiaries for an additional period of time. The Debtor believes both modifications to benefit payments to or on account of Beneficiaries are necessary to the long-term viability of the Debtor (and its ability to continue providing benefits beyond 2014) and to the Debtor's ability to successfully reorganize its obligations through these restructuring proceedings.

26. I have read the Benefits Motion and believe that the relief requested in the Motion is in the best interests of the Debtor and the Debtor's estate.

B. Motion Of Debtor For Entry Of Order Pursuant to 11 U.S.C. § 105(a) Enforcing Protections of 11 U.S.C. § 362 and Prohibiting Unauthorized Actions Against the Debtor's Management and Board of Trustees During this Proceeding (the "Aid Of Automatic Stay Motion").

27. In the Aid of Automatic Stay Motion, the Debtor seeks entry of a proposed Order (i) confirming imposition of the automatic stay provided by section 362 of the Bankruptcy Code, including enjoining prosecution of all derivative actions that constitute "property of the estate" under section 362(a)(3) of the Bankruptcy Code; and (ii) enjoining all actions against the Debtor's Board of Trustees and employees, in their official capacities, during this proceeding, absent approval by this Court prior to the commencement of such action.

28. While the automatic stay is self-executing, the Debtor is concerned that certain parties may be unfamiliar with the provisions of United States bankruptcy law. In particular, the Debtor is concerned about ongoing litigation efforts to force Debtor into receivership proceedings. Similarly, the Debtor is concerned that continuation of derivative actions, commenced by non-Debtor parties, based on alleged harm to the Debtor, would disrupt the Debtor's reorganization effort.³ The Debtor seeks the relief requested herein to inform these and other parties, if necessary, of the protections granted to the Debtor by sections 362 of the Bankruptcy Code and to alleviate any confusion regarding the effect of this Chapter 11 case on the Debtor.

29. In addition, initially enjoining all actions against the Debtor's Board of Directors and employees during this proceeding, pursuant to section 105(a) of the Bankruptcy Code, is necessary. Otherwise, frivolous suits and/or other actions otherwise could distract and burden

³ Until recently, the Commonwealth Code gave Beneficiaries the broad "right to maintain an action before the Commonwealth courts for the benefit of the Retirement Fund ... and against anyone or any entity who has done harm to the Retirement Fund" if the Board of Trustees declines or fails to initiate or join in such action within a "reasonable time." P.L. 17-51. There is at least one suit pending that attempts to use P.L. 17-51 as a basis for jurisdiction. Upon passage of Public Law No. 17-51, many of the professionals on whom the Debtor relies resigned rather than face the risk of having to defend frivolous litigation.

the Board of Directors and employees, and would be detrimental to the reorganization of the Debtor. Moreover, any such suit would, in essence, be a suit against the Debtor because it would trigger the Debtor's indemnification obligations. Under the procedures proposed in the Aid of Automatic Stay Motion, to the extent a party believes a potential claim or action against the Board of Trustees or the Debtor's employees is meritorious and would not trigger the Debtor's indemnification obligations, that party would be free to seek leave of this Court to bring such an action in an appropriate forum.

30. I have read the Aid of Automatic Stay Motion and believe that the relief requested in the Motion is in the best interests of the Debtor, the Debtor's estate and the Debtor's creditors.

C. Motion of the Debtor for Entry of an Order Authorizing the Debtor to (A) Maintain Existing Bank Accounts and Continue Use of Cash Management System, (B) Continue Use of Existing Business Forms, and (C) Open New Debtor-in-Possession Accounts (the "Cash Management Motion").

31. In the Cash Management Motion, the Debtor seeks authority to maintain existing bank accounts, business forms and its cash management system, and investment accounts, and, if required, to obtain a limited waiver of the requirements of 11 U.S.C. § 345(b).

(i) Maintenance of Existing Bank Accounts.

32. Prior to the Petition Date, the Debtor, in the ordinary course of its business, maintained four bank accounts, which are described more fully on Exhibit A to the Cash Management Motion (collectively, the "Bank Accounts"). Prior to the Petition Date, the Debtor's cash management system operated in the manner described in the Cash Management Motion. The flow of the Debtor's funds through the Bank Accounts is described in the Cash Management Motion and incorporated by reference herein.

33. I understand that the United States Trustee has established Operating Guidelines for Chapter 11 cases (the "Operating Guidelines") applicable to debtors in possession

that continue to operate their businesses after the commencement of their Chapter 11 cases. One provision of the Operating Guidelines requires a Chapter 11 debtor in possession to open new bank accounts and to close all existing accounts.

34. The Debtor seeks a waiver of the Operating Guideline's requirement that the Bank Accounts be closed and new post-petition bank accounts be opened.

35. If enforced in this Chapter 11 case, this requirement would cause undue disruption to the Debtor's continued operations and would impair its efforts to maximize value through this Chapter 11 process. Dismantling the Debtor's cash management system would make it materially more difficult and expensive to maintain operations pending its reorganization.

(ii) **Continued Use of Existing Business Forms.**

36. To minimize expense and inconvenience to their estates, the Debtor has also requested authority to continue to use their existing supplies of correspondence and business forms (including, but not limited to, letterhead, purchase orders, invoices, and checks), without reference to its status as debtor-in-possession.

37. The Debtor will, of course, ensure that the "Debtor-In-Possession" designation is placed on any new checks ordered after the Petition Date.

38. The continued use of the Debtor's existing business forms and checks will avoid the expense and disruption that might otherwise result from ordering and instituting the use of new business forms during the initial days of this Chapter 11 case.

(iii) **Continuation of the Existing Cash Management System.**

39. The Debtor maintains current and accurate accounting records of daily cash transactions and submit that maintenance of its current cash management system will

prevent undue disruption to its businesses and operations, while protecting its existing cash assets for the benefit of its estate. The components of the Debtor's cash management system and the flow of funds among the various Bank Accounts are set forth in detail in the Cash Management Motion.

40. If the Debtor is not permitted to continue to use their cash management system as described therein, it will impair the orderly operation of the Debtor's business.

(iv) **The Requirements of Bankruptcy Code Section 345 are Satisfied.**

41. The Debtor represents that money deposited or invested is in compliance or are requested to be waived in accordance with 11 U.S.C. § 345(b) as more specifically identified on Exhibit A to the Cash Management Motion. In the event that any of the Bank Accounts do not comply with Section 345(b) of the Bankruptcy Code, the Debtor requests a limited waiver of the requirements of Bankruptcy Code Section 345(b) at this time, and will comply with any direction of the United States Trustee to ensure that deposit or investment of money of the Debtor's estate will comply with Section 345(b) of the Bankruptcy Code.

42. As more fully set forth in the Cash Management Motion, the corpus of the Debtor's retirement fund assets are maintained and invested by outside professional investment advisors. As this is tied directly to the Debtor's primary function, the Debtor seeks a waiver of section 345(b) of the Bankruptcy Code (to the extent applicable) to permit the Debtor and its investment advisors to manage and invest such funds consistent with their existing mandate.

43. I have read the Cash Management Motion and believe that the relief requested by the Cash Management Motion is in the best interests of the Debtor and its estate.

D. Motion Of Debtor For An Order Authorizing The Retention And Employment Of Professionals Used In The Ordinary Course Of Business (the "Ordinary Course Professionals Motion").

44. The Debtor seeks the entry of an Order authorizing the retention,

employment, compensation, and reimbursement of expenses for certain professionals used in the ordinary course of the Debtor's business.

45. In the ordinary course of the Debtor's business, the Debtor employs certain professionals, including various attorneys, advisors and consultants (the "Ordinary Course Professionals"). The Ordinary Course Professionals provide services which are unrelated to the administration of this Chapter 11 case, but are nevertheless important to the day-to-day operation of the Debtor's business. Because the Ordinary Course Professionals are an integral part of the Debtor's business (and may be unwilling to provide services to the Debtor post-petition if not paid on a regular basis or if required to adhere to the formal retention and fee requirements), the Debtor believes that its continued employment and compensation subject to the procedures set forth in the Ordinary Course Professionals Motion is in the best interests of the Debtor's estate, creditors and other parties in interest.

46. I have read the Ordinary Course Professionals Motion and believe that the relief requested by the Ordinary Course Professionals Motion is in the best interests of the Debtor and its estates.

E. Motion of the Debtor for an Order Authorizing (I) Payment of Pre-Petition Employee Wages, Salaries, and Other Compensation; (II) Reimbursement of Pre-Petition Employee Business Expenses; (III) Payment of Pre-Petition Tax and Other Withholdings to Third-Parties; (IV) Contributions to Pre-Petition Employee Health and Other Benefit Programs and Continuation of Such Programs; (V) Payment of Workers' Compensation Obligations and Other Insurance Premiums; and (VI) Related Relief (the "Wage Motion")

47. Pursuant to the Wage Motion, the Debtor seeks the ability to pay certain prepetition employee wages, expenses and to continue employee benefit programs in the ordinary course of business (collectively, the "Employee Obligations").

48. As of the Petition Date, the Debtor employs approximately twenty-four (24) individuals, all of whom are full-time employees (the “Employees” or “Full-Time Employees”). Twenty-two (22) of the Debtor’s Employees are based in the Saipan office, one (1) of the Debtor’s Employees is based in the Tinian office, and one (1) of the Debtor’s Employees is based in the Rota Office. Of the Debtors’ Employees, approximately 4 are compensated on the basis of a fixed salary (the “Salary Employees”) and 20 are compensated on an hourly basis (the “Hourly Employees”).

49. The Employees perform a variety of critical functions for the Debtor’s businesses, and the Employees’ skills and their specialized knowledge and understanding of the Debtor’s infrastructure and operations are essential to the Debtor’s continuing operations and its reorganization effort. The continued and uninterrupted service of the Employees is critical to the successful reorganization of the Debtor.

50. To avoid the personal hardship that the Employees will suffer if pre-petition employee related obligations are not paid when due or as expected, and to maintain morale, the Debtor seeks authority to pay Employees’ accrued pre-petition wages and other benefits, in their sole discretion, to pay and honor certain pre-petition claims for, among other items, wages, salaries and other compensation, other amounts withheld (e.g., garnishments, employee share of insurance premiums, paid time off, medical benefits, insurance benefits) and all other employee benefits that the Debtor historically paid or honored in the ordinary course of business to Employees and to pay all costs incident to the foregoing. The Debtor also seeks authority, in its discretion, to pay reimbursable business expenses of Employees.

51. Debtor seeks only the authority to make the payments relating to the Employee Obligations, but not the obligation to do so. Further, the Debtor is not assuming any

administrative, pre-petition or post-petition liabilities with respect to Employee Obligations and is not seeking to assume any executory contracts.

52. I have read the Wage Motion and I believe that the relief requested by the Wage Motion is in the best interest of the Debtors and their estates.

F. Debtor's Motion For An Order Extending The Time Within Which Debtor Must File Its (I) Schedule Of Assets And Liabilities, (II) Schedule Of Executory Contracts And Unexpired Leases; and (III) Statement Of Financial Affairs (the "Extension to File Schedules Motion")

53. The Debtors seek entry of an Order extending the time within which the Debtor must file its (i) schedules of assets and liabilities; (ii) schedule of executory contracts and unexpired leases; and (iii) statement of financial affairs (collectively, the "Schedules and Statement").

54. Bankruptcy Rule 1007 requires a Chapter 11 debtor to file its Schedules and Statement with its voluntary petition for relief or within 14 days thereafter. Fed. R. Bankr. P. 1007(b)-(c). Bankruptcy Rule 1007(c) also authorizes the Bankruptcy Court to extend a debtor's time to file its Schedules and Statement "for cause." Fed. R. Bankr. P. 1007(c).

55. The Debtor believes that good cause exists for granting the short extension of time requested herein because of the amount of information that must be assembled and compiled, and the large amount of employee and professional hours required to complete the Schedules and Statement.

56. Accordingly, the Debtor respectfully requests that the Court extend by an additional 15 days, until, May 16, 2012, the date by which the Schedules and Statement must be filed pursuant to Bankruptcy Rule 1007.

57. I have read the Extension to File Schedules Motion and believe that the relief requested by the Extension to File Schedules Motion is in the best interests of the Debtor

and the estate.

G. Emergency Motion Under Local Rule 7.1(h)(3)(b) For An Expedited Hearing on First Day Motions (the "Expedited Hearing Motion")

58. The Debtor seeks entry of an Order scheduling an expedited hearing, as soon as practicable, as well as approving limited notice and a shortened objection period, for the First Day Motions.

59. An expedited hearing to consider the immediate relief requested in the First Day Motions is necessary because of the urgency of continuing to make certain benefit payments to Beneficiaries throughout the pendency of these Chapter 11 proceedings who rely on those payments for their survival and well-being, the necessity of staying ongoing and potential litigation to give Debtor relief to reorganize and the Debtor's need to conduct its business and this case efficiently postpetition.

60. I have read the Expedited Hearing Motion and believe that the relief requested by the Expedited Hearing Motion is in the best interests of the Debtor and its estate.

PART III: CONCLUSION

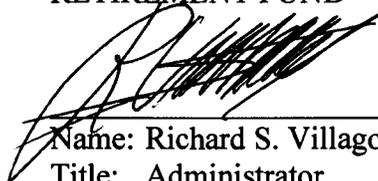
61. Accordingly, for the reasons stated herein and in each of the First Day Pleadings, the relief sought therein is in the best interests of the Debtor, its creditors and estate; and therefore, on behalf of the Debtor, I respectfully request that the First Day Pleadings be granted.

I declare under penalty of perjury that, to the best of my knowledge, information and/or belief, and after reasonable inquiry, the foregoing is true and correct.

Dated: April 17, 2012
Saipan, MP

Respectfully submitted,

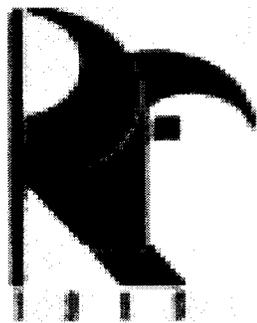
NORTHERN MARIANA ISLANDS
RETIREMENT FUND



Name: Richard S. Villagomez
Title: Administrator

60523992 v2

EXHIBIT A



NMI Retirement Fund

**Fiscal Condition and Viability of
the NMIRF**

March 6, 2012

Summary of Financial Status

- Assets in Portfolio at 12/31/11:	\$ 256,697,654
- Employee Portion of Assets (encumbered per Court Order):	<u>113,000,000</u>
- Assets available to Pay Benefits:	\$ 143,697,654
- Total Revenues:	\$ 30,478,125
- Expenditures:	\$ (80,751,570)
- Shortfall:	\$ (50,273,445)
- Drawdowns in FY 2011:	\$ 53,000,000

Benefit Payouts by Category

NMIRF FY11 Data
(Unaudited)

Beneficiary Category	Count	Total Annual Payouts	Average Annual Payouts
Retirees	2,414	56,046,319	23,217
Surviving Spouse	574	5,937,026	10,343
Surviving Children	<u>198</u>	<u>1,211,027</u>	<u>6,116</u>
Total	3,186	63,194,372	19,835

Notes:

- Roughly \$50 million is paid to Beneficiaries residing in the CNMI
- Data is Unaudited

Number of Active Employees: 3,203 (including re-employed retirees)

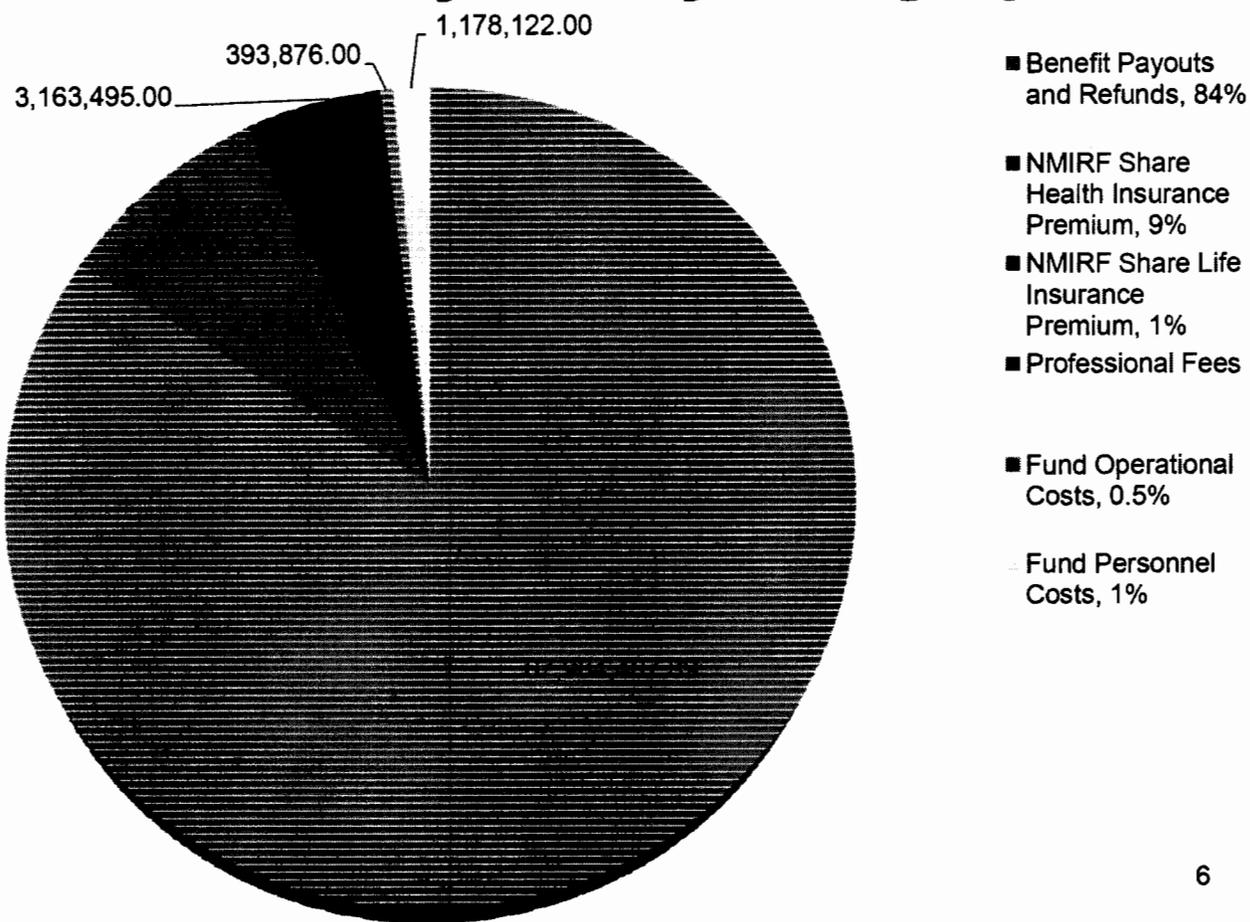
Revenues FY 2011

<u>Revenues</u>	<u>Amount</u>	<u>% of Total</u>
EE Contributions	\$ 8,080,609	26.5%
ER Contributions	<u>13,114,952</u>	43.0%
Total Contributions	\$21,195,561	69.5%
P.L. 13-60, Contributions & Penalty:	744,596	2.4%
Judgment (Taxes)	374,910	1.2%
Other EE Contributions:	210,443	0.7%
Local Investments	<u>1,690,461</u>	5.5%
Total On-Island Sources	24,215,971	79.5%
Investment Income - Portfolio	<u>6,262,154</u>	20.5%
Total Revenues All Sources	<u>\$30,478,125</u>	100.0%

Expenditures FY 2011

<u>Expenditure</u>	<u>Amount</u>	<u>% of Total</u>
Retirement/Survivors Pension	\$61,684,673	76.4%
Disability Payments	1,442,337	1.8%
Death Lump Sum Payments	67,361	0.1%
Health & Life Insurance PL 8-31	8,031,610	9.9%
ARB (COLA)	130,246	0.2%
Refunds	<u>4,659,850</u>	5.8%
Total Benefits Payment	76,016,077	94.1%
Professional Fees	3,163,495	3.9%
Other General & Admin. Expenses	393,876	0.5%
Personnel Expenses	<u>1,178,122</u>	1.5%
Total Expenditures	\$80,751,570	100%

Total Payouts by Category



The Problem

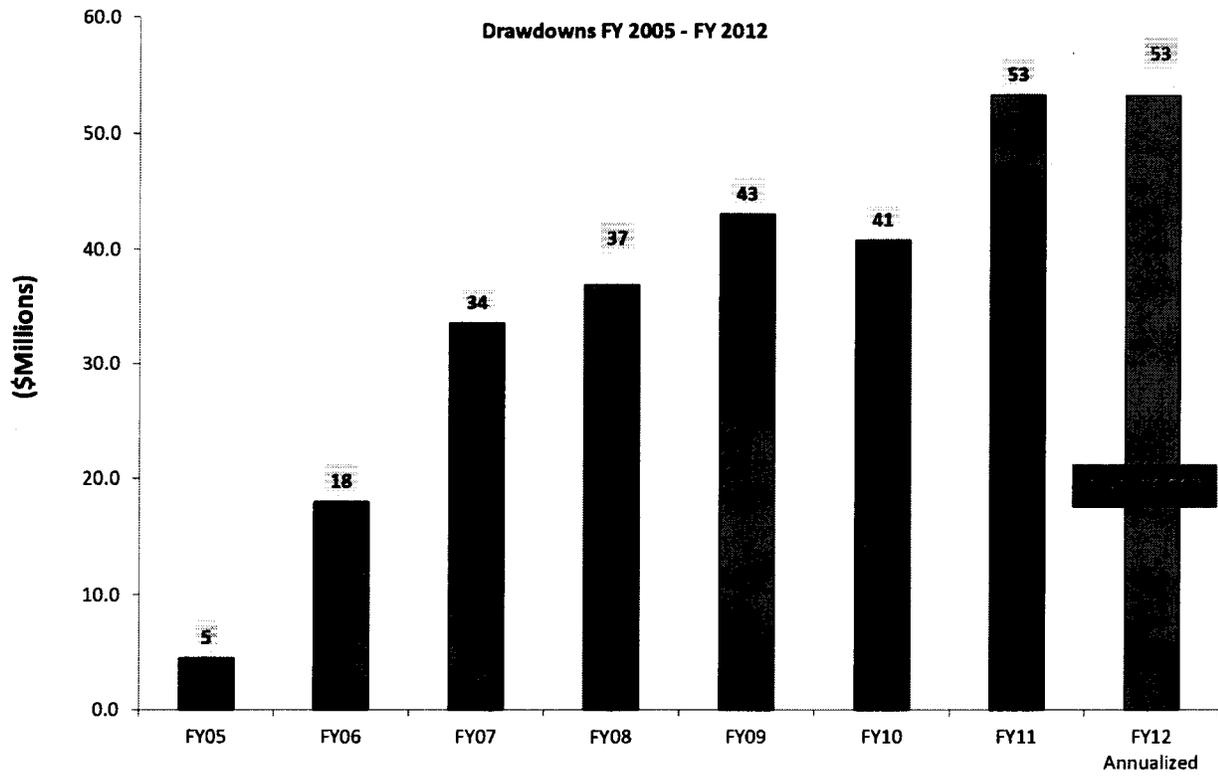
Total Revenues	\$ 30,478,125
Expenditures	<u>\$ (80,751,570)</u>
Shortfall	\$ (50,273,445)
Actual Drawdown	\$ 53,223,000

Drawdowns Are Too Big!

The Problem

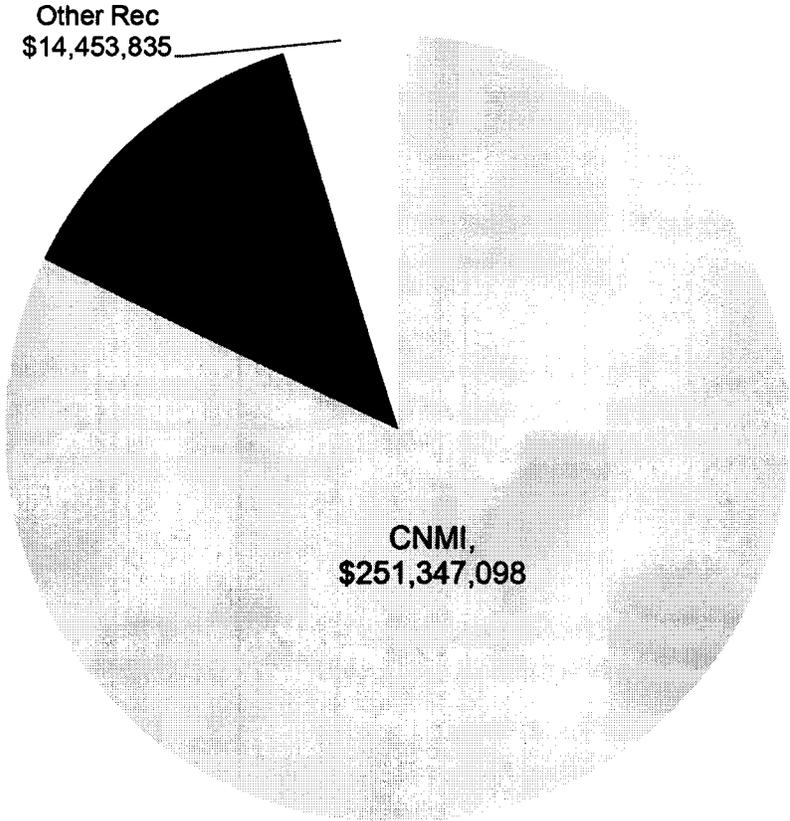
Fiscal Year	Contribution Depst to Port	Cumulative Contributions	Actual EMV
1988 - 2001	-	140.87	314.61
2002	(1.00)	139.87	294.79
2003	-	139.87	337.93
2004	-	139.87	373.68
2005	(4.50)	135.37	426.83
2006	(17.97)	117.40	458.90
2007	(33.51)	83.89	483.40
2008	(36.83)	47.06	383.09
2009	(43.02)	4.04	333.70
2010	(40.75)	(36.71)	313.75
2011	(53.22)	(89.93)	267.00
20-Jan-12	(17.71)	(107.64)	253.90
(Contributions)	(248.5)		

Drawdowns The Problem!



Root of the Problem

NMIRF Receivables By Category - Oct 2011



What is the Effect?

Plaintiff's Exhibits 1 through 6

Civil Case 06 - 0367

NMI Retirement Fund vs. CNMI Government

During the February 28, 2012 hearing, the Retirement Fund submitted into evidence Plaintiff's Exhibit 1 through 6 shown in the subsequent pages. Each of the exhibits shows different scenarios prepared by the Retirement Fund's consulting actuary, Mr. Dylan Porter, FSA, of Buck Consultants. Mr. Porter also provided expert testimony on the condition of the NMI Retirement Fund.

These documents were reproduced by the Retirement Fund pursuant to Judge Govendo's instructions that the Retirement Fund distribute them to every Retirement Fund member, the Commonwealth Retirement Association, the Office of the Governor, the Legislature, and the general public for the purpose of keeping everyone informed of the Fund's situation.

The scenarios show that because of inaction on the part of the legislature and the executive branch, and the continuing underfunding of contributions means a 100% reduction in benefit payments in 2 years and 7 months based on the present course. Lesser payouts now can prolong your benefits into the future. This may buy time to allow the legislature and the executive branch to fix the underfunding problem and restore your benefits.

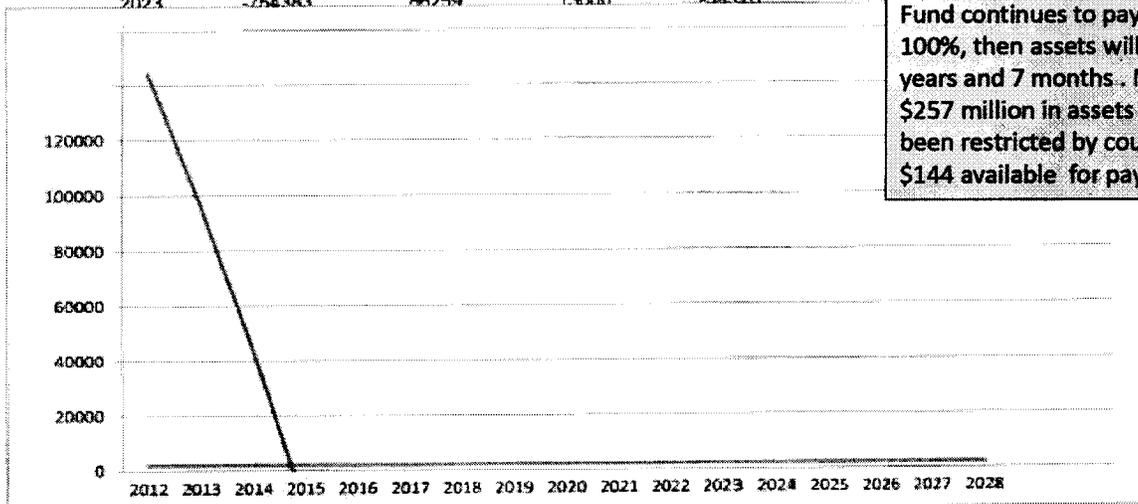
Inputs	2012 Assets 144000	Percent Paid 100%	Contributions 13,000	Interest 0.075
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Projected Runoff: Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	144000	69619	13000	8677	
2013	96058	70650	13000	5042	
2014	43450	71984	13000	1047	7.24
2015	-14487	75030	13000	-3413	
2016	-78930	76637	13000	-8392	
2017	-152259	79171	13000	-13901	
2018	-232331	80436	13000	-18954	
2019	-319721	81805	13000	-26569	
2020	-415085	83192	13000	-33764	
2021	-519041	84323	13000	-41603	
2022	-631967	85307	13000	-50109	
2023	-754383	86259	13000	-59326	

Exhibit 1

Shows that with assets of \$144 million plus annual employer contributions of \$13 million plus earnings of 7.5%, if the Fund continues to pay benefits at 100%, then assets will be depleted in 2 years and 7 months. Note that of the \$257 million in assets \$113 million has been restricted by court order, leaving \$144 available for payment of benefits



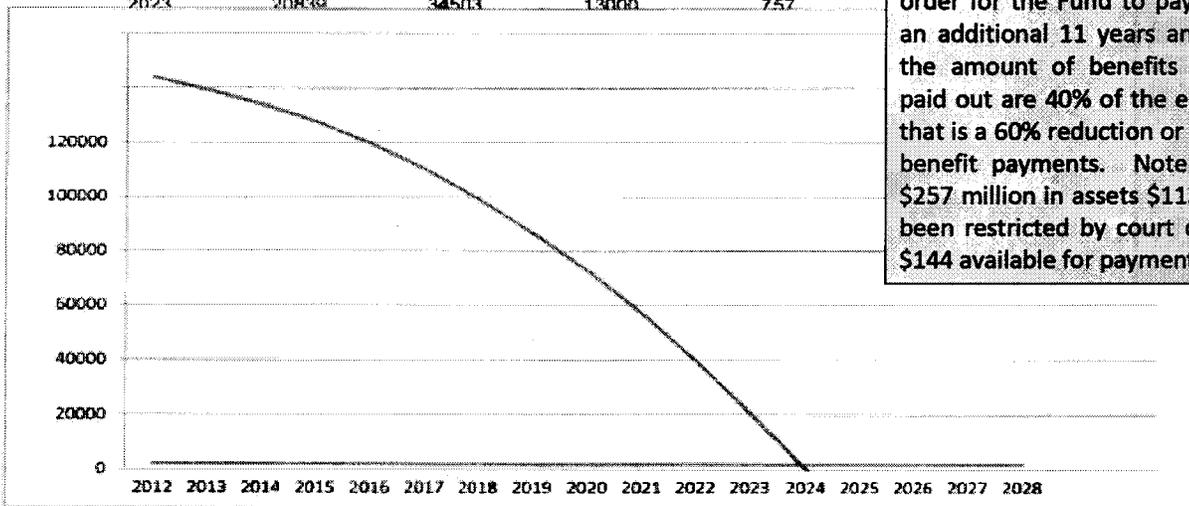
PLAINTIFF'S EXHIBIT

Inputs	2012 Assets 144000	Percent Paid 40%	Contributions 13,000	Interest 0.075
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Projected Runoff: Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	144000	27848	13000	10243	
2013	139395	28260	13000	9882	
2014	134017	28793	13000	9459	
2015	127683	30012	13000	8938	
2016	119609	30775	13000	8304	
2017	110138	31688	13000	7560	
2018	99030	32174	13000	6708	
2019	86564	32722	13000	5753	
2020	72595	33277	13000	4684	
2021	57002	33729	13000	3498	
2022	38771	34123	13000	2191	
2023	20839	34503	13000	757	

Exhibit 2
Shows that with assets of \$144 million plus annual employer contributions of \$13 million plus earnings of 7.5%, in order for the Fund to pay benefits for an additional 11 years and 7 months, the amount of benefits that can be paid out are 40% of the entitlement. – that is a 60% reduction or deferment in benefit payments. Note that of the \$257 million in assets \$113 million had been restricted by court order leaving \$144 available for payment of benefits.



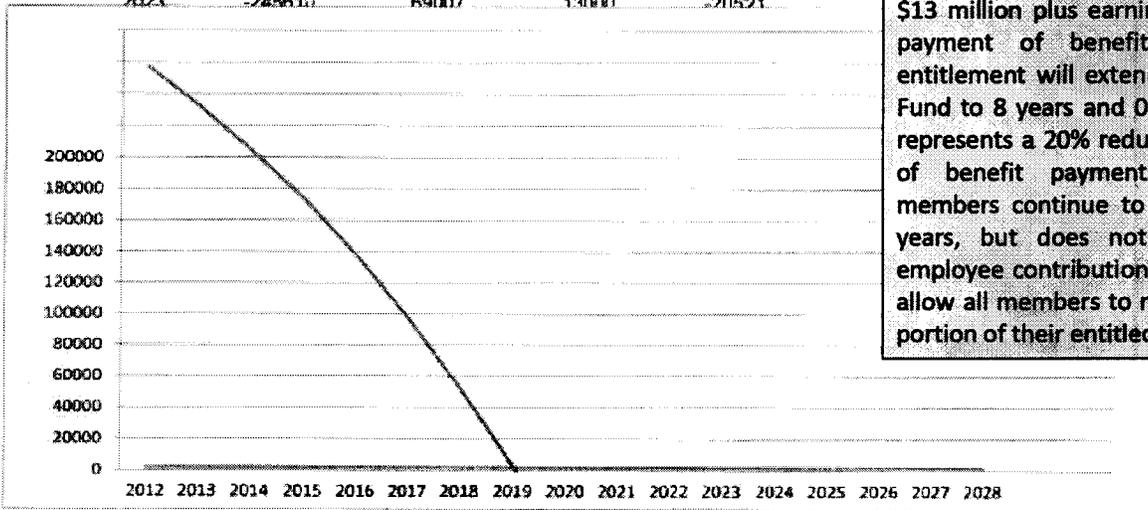
PLAINTIFF'S EXHIBIT **2**

Inputs	2012 Assets 257000	Percent Paid 80%	Contributions 13,000	Interest 0.075
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Projected Runoff: Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	257000	55695	13000	17874	
2013	231979	56520	13000	15766	
2014	204225	57587	13000	13645	
2015	173283	60024	13000	11233	
2016	137492	61549	13000	8491	
2017	97434	63337	13000	5420	
2018	52517	64348	13000	2013	
2019	3182	65444	13000	-1728	
2020	-50990	66554	13000	-5833	
2021	-110377	67459	13000	-10320	
2022	-175155	68246	13000	-15208	
2023	-243010	69007	13000	-20821	

Exhibit 3
Shows that with assets of \$257 million (assuming all assets were available to pay benefits – i.e. court order is lifted) plus annual employer contributions of \$13 million plus earnings of 7.5%, the payment of benefits at 80% of entitlement will extend the life of the Fund to 8 years and 0.6 months. This represents a 20% reduction/deferment of benefit payments and eligible members continue to retire in future years, but does not protect active employee contributions and would not allow all members to receive at least a portion of their entitled benefits.



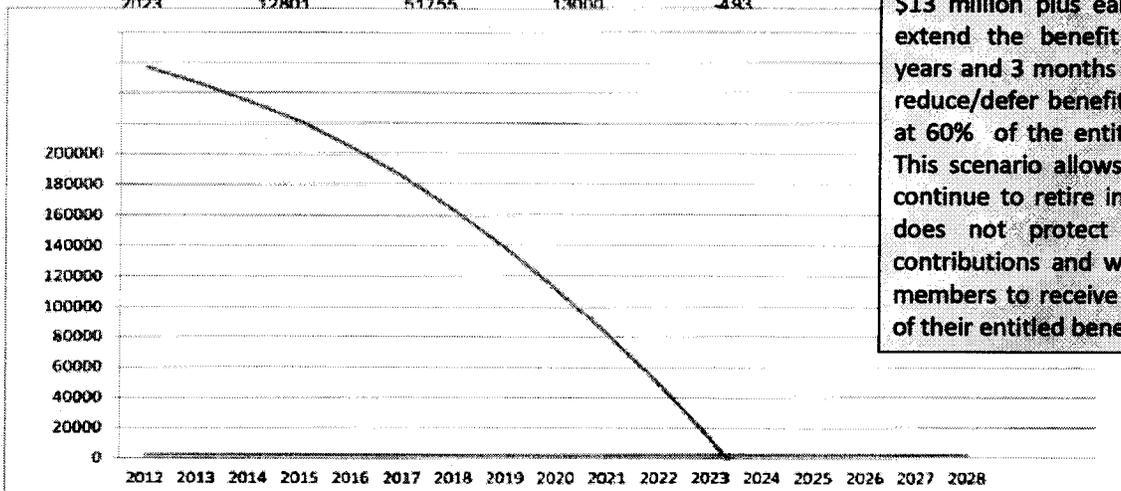
PLAINTIFF'S EXHIBIT 3

Inputs	2012 Assets 257000	Percent Paid 60%	Contributions 13,000	Interest 0.075
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Projected Runoff: Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	257000	41772	13000	18196	
2013	246424	42390	13000	17380	
2014	234414	43190	13000	16449	
2015	220673	45018	13000	15350	
2016	204005	46162	13000	14057	
2017	184900	47502	13000	12574	
2018	162972	48261	13000	10901	
2019	138612	49083	13000	9043	
2020	111572	49915	13000	6984	
2021	81641	50594	13000	4713	
2022	48760	51184	13000	2225	
2023	12801	51755	13000	-493	

Exhibit 4
Shows that with assets of \$257 million (assuming all assets were available to pay benefits – i.e. court order is lifted) plus annual employer contributions of \$13 million plus earnings of 7.5%, to extend the benefit payments by 12 years and 3 months, it is necessary to reduce/defer benefits by 40% and pay at 60% of the entitlement each year. This scenario allows eligible members continue to retire in future years, but does not protect active employee contributions and would not allow all members to receive at least a portion of their entitled benefits.



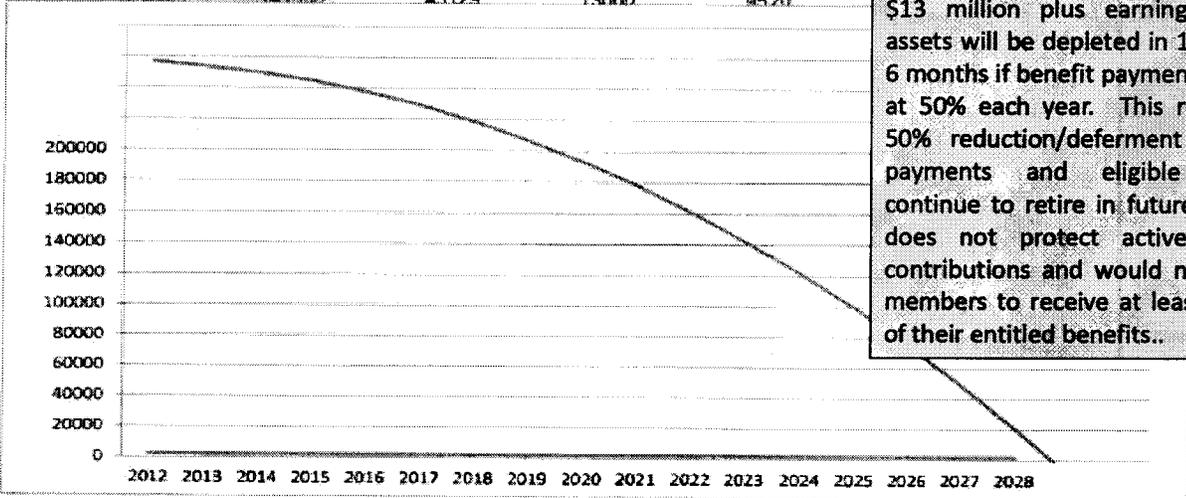
PLAINTIFF'S
EXHIBIT **4**

Inputs 2012 Assets Percent Paid Contributions Interest
 257000 50% 13,000 0.075

Projected Runoff. Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	257000	34810	13000	18457	
2013	253647	35325	13000	18186	
2014	249508	35992	13000	17851	
2015	244367	37515	13000	17408	
2016	237260	38468	13000	16839	
2017	228631	39585	13000	16150	
2018	218196	40218	13000	15344	
2019	206322	40902	13000	14428	
2020	192848	41596	13000	13391	
2021	177643	42162	13000	12230	
2022	160711	42854	13000	10941	
2023	141868	43129	13000	9520	

Exhibit 5
 Shows that with assets of \$257 million (assuming all assets were available to pay benefits – i.e. court order is lifted) plus annual employer contributions of \$13 million plus earnings of 7.5%, assets will be depleted in 17 years and 6 months if benefit payments are made at 50% each year. This represents a 50% reduction/deferment in benefit payments and eligible members continue to retire in future years, but does not protect active employee contributions and would not allow all members to receive at least a portion of their entitled benefits..



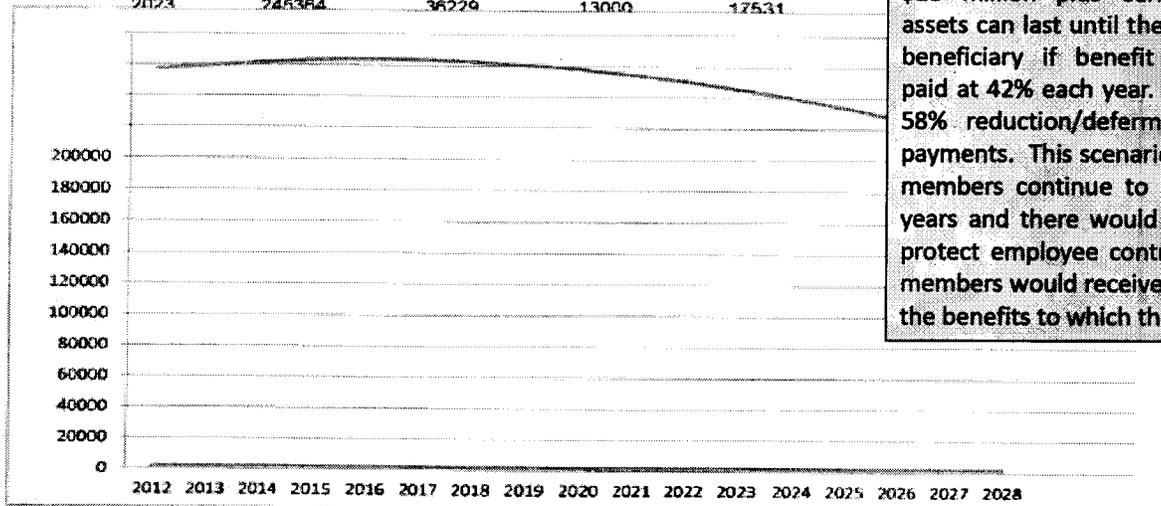
PLAINTIFF'S
 EXHIBIT **5**

Inputs	2012 Assets 257000	Percent Paid 42%	Contributions 13,000	Interest 0.075
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Projected Runoff: Amounts in columns B-F are in thousands (000s omitted)

January 1	Assets	Ben Pmts	Contributions	Earnings	Months to zero
2012	257000	29240	13000	18866	
2013	259426	29673	13000	18832	
2014	281585	30233	13000	18973	
2015	283325	31513	13000	19055	
2016	283867	32313	13000	19066	
2017	263620	33252	13000	19012	
2018	262380	33783	13000	18899	
2019	260498	34358	13000	18736	
2020	257874	34941	13000	18518	
2021	254451	35416	13000	18243	
2022	250278	35829	13000	17915	
2023	245364	36229	13000	17531	

Exhibit 6
Shows that with assets of \$257 million (assuming all assets were available to pay benefits – i.e. court order is lifted) plus annual employer contributions of \$13 million plus earnings of 7.5%, assets can last until the end of the last beneficiary if benefit payments are paid at 42% each year. This requires a 58% reduction/deferment in benefit payments. This scenario allows eligible members continue to retire in future years and there would be no need to protect employee contributions, as all members would receive at least 42% of the benefits to which they are entitled.



PLAINTIFF'S EXHIBIT

What do Projections Tell Us?

Plaintiff's Exhibit	2012 Assets	Percent Paid	Contributions	Interest	Duration of Benefit Payouts
1	144000	100%	13,000	0.075	2 years and 7 months
2	144000	40%	13,000	0.075	11 years and 7 months
3	257000	80%	13,000	0.075	8 years and 0.6 months
4	257000	60%	13,000	0.075	12 years and 3 months
5	257000	50%	13,000	0.075	17 years and 6 months
6	257000	42%	13,000	0.075	Indefinite

Column Heading and Description

Plaintiff's Exhibit - the exhibit number shown in yellow colored box in lower right hand corner of each exhibit

2012 Assets - asset / portfolio value assumption at 1/01/12 in thousands, example Plaintiff's Exhibit 1 shows 2012 Assets of \$144 million

Percent Paid - shows the assumed level of total benefit to be paid starting 1/01/12 and each subsequent year, example Plaintiff's Exhibit 6 assumes 42% of benefits are paid each year starting in 1/01/12, this implies total benefit payouts are reduced by 58%

Contributions - the level of total employer contributions assumed to be received by the Retirement Fund in FY2012 and each subsequent year until depletion

Interest - shows the assumed annual rate of return on assets starting FY2012 and each subsequent year

Duration of Benefit Payouts - this column is not shown on the exhibits but was explained by the actuary Mr. Dylan Porter. It shows the number years the Retirement Fund will be able to pay benefits given the assumptions shown in columns blue colored font on each exhibit.

How Can Drawdowns be Reduced to Prolong Benefit Payouts?

1. Increase Contributions / Year Starting ***THIS YEAR!***

BUT is Increasing Contributions by any amount by any amount starting ***THIS YEAR*** possible?

2. Defer Payouts Starting ***THIS YEAR*** (deferral of benefit pmts, removal of Insurance obligation, etc.)

BUT is Deferring any amount ***THIS YEAR*** possible?

How Can Drawdowns be Reduced to Prolong Benefit Payouts?

3. Or Combination of Increase in Contributions + Deferral of Payments.

Depends on How Much More the CNMI is Willing or Able to Provide in additional contributions starting ***THIS YEAR.***

What do Projections Tell Us?

Plaintiff's Exhibit	2012 Assets	Percent Paid	Contributions	Reduction in Drawdowns	Duration of Benefit Payouts
1	144000	100%	13,000	0	2 years and 7 months
2	144000	40%	13,000	41,771	11 years and 7 months
3	257000	80%	13,000	13,924	8 years and 0.6 months
4	257000	60%	13,000	27,848	12 years and 3 months
5	257000	50%	13,000	34,810	17 years and 6 months
6	257000	42%	13,000	40,379	Indefinite

Challenges and Issues to Consider

A. How Can Contribution Revenues be increased starting *THIS YEAR* ?

- POB, unlikely but should continue pursuing as an option
- Increase Taxes, also unlikely but should continue pursuing
- Initiatives to amend Constitution to transfer public lands and revenues to NMIRF, also should continue pursuing

B. How Do We Defer Any Level of Benefit Payments Starting *THIS YEAR*?

- Legal Issues?
- Practical Issues?

NMI Retirement Fund
Questions / Comments