

MEMORANDUM

To: **Board of Trustees; Fresno County Employees' Retirement Association**
From: **Jeffrey MacLean; Wurts & Associates**
Date: **November 4, 2009**
Re: **Attorney General's Office Claim Against State Street Corporation**

On October 20th, the Attorney General of the State of California filed a \$200 million claim against State Street for allegedly overcharging CALPERS and CALSTRS for currency trades. In the complaint, Attorney General Brown alleged that State Street inappropriately marked up the interbank currency trades to the highest rate for that day instead of the rate at which the trade was actually conducted. State Street has denied the charges and they intend to fight the lawsuit in court.

Obviously, Wurts and the administrative staff is sensitive to any litigation that involves one of our key service providers, especially when it involves two prominent regional public funds like CALPERS and CALSTERS on a service (foreign currency trading) FCERA is using. However, we believe it is important to continue managing the Plan with State Street and not have this lawsuit interrupt any of our initiatives like the pending funding of the Russell 2000 Value Index strategy with State Street Global Advisors

Wurts and the administrative staff has already conferred with legal counsel on this issue that we decided to do the following in addition to closely monitoring the legal developments of this case, which could take years to resolve:

- Legal counsel is reviewing the agreements with State Street, Templeton, and Oechsle to evaluate the language surrounding their respective responsibilities regarding currency trading.
- Wurts is seeking information about the volume of currency transactions within these two portfolios from State Street, Templeton and Oechsle to determine the gross magnitude of the potential issue for FCERA.

In the meantime, Wurts and the administrative staff intends to manage the Plan as usual with respect to State Street and brief the Board of Trustees on any further material developments once they become available.

Please feel free to call me at 310.922.1988 should you have any questions.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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October 21, 2009

All Counsel

RE: ***The People of the State of California ex rel. Edmund G. Brown, Jr. v. State Street Corporation et al.***
Sacramento County Superior Court, Case No. 34-2008-00008457-CU-MC-GDS

Dear Counsel:

On October 20th, the Attorney General's Office (AGO) filed a Complaint in Intervention in the above-referenced California False Claims Act action. Attached are the Notice of Intervention and Complaint in Intervention. Pursuant to Government Code section 12652(c)(8)(E), you are permitted to intervene in the action within 60 days from the date of the AGO's notification to the court.

If you have any questions, Please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Sylvia Keller".

SYLVIA KELLER
Deputy Attorney General

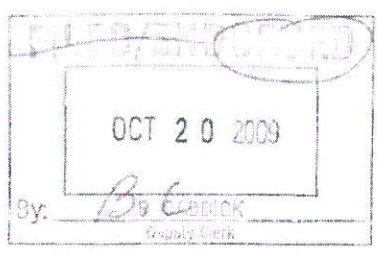
For EDMUND G. BROWN JR.
Attorney General

SWK:rm

Enclosures

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Attorneys for People of the State of California



13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SACRAMENTO

17 **THE PEOPLE OF THE STATE OF**
18 **CALIFORNIA** *EX REL.* **EDMUND G.**
19 **BROWN JR.,**
20 **Plaintiff,**
21 **v.**
22 **STATE STREET CORPORATION, STATE**
23 **STREET CALIFORNIA INC., STATE**
24 **STREET BANK AND TRUST COMPANY,**
STATE STREET GLOBAL MARKETS,
25 **AND DOES 1 THROUGH 100, INCLUSIVE.**
26 **Defendants.**

Case No. 34-2008-00008457-CU-MC-GDS
COMPLAINT IN INTERVENTION
Violation of the California False Claims Act
(Cal. Gov. Code, § 12651)
Unlawful Business Practices
(Bus. & Prof. Code § 17200)
Demand for Jury Trial

1 Plaintiff, the People of the State of California, by and through California Attorney General
2 Edmund G. Brown Jr., allege as follows:

3 **INTRODUCTION**

4 1. This action is brought against State Street Corporation, State Street California Inc.
5 (“State Street California”), State Street Bank and Trust Company (“State Street Bank”), and State
6 Street Global Markets (“Global Markets”) (collectively “State Street”). For years, State Street,
7 led by a group of its internal “risk traders,” raided the custodial accounts of California’s two
8 largest public pension funds, in a total amount exceeding \$56 million, by fraudulently pricing
9 foreign currency (“FX”) trades State Street executed for the pension funds. State Street Bank is
10 the custodial bank and fiduciary for the California Public Employees’ Retirement System
11 (CalPERS) and the California State Teachers’ Retirement System (CalSTRS) (collectively “the
12 Pension Funds”). State Street Bank executed FX trades for the Pension Funds when notified that
13 the Pension Funds required foreign currency to close foreign securities trades, or when the
14 Pension Funds requested that State Street convert foreign currency held in the Pension Funds’
15 custodial accounts into U.S. Dollars.

16 2. Beginning in 2001, State Street Bank’s contracts with the Pension Funds
17 guaranteed that the Pension Funds would receive the most competitive rates available for all FX
18 transactions, regardless of size, currency, or contract type because, as State Street represented, all
19 trades would be priced based upon the Interbank Rate (“Interbank Rate”) at the time the trades
20 were executed. The Interbank Rate is the price at which major banks that operate within the
21 interbank market buy and sell currency. The Interbank Rate fluctuates throughout each day and is
22 tracked and published by various industry sources. However, rather than price the Pension
23 Funds’ custody FX trades at the Interbank Rate, State Street consistently “marked-up” the prices
24 using rates far in excess of the Interbank Rate at the time State Street executed the trades.
25 Conversely, when State Street executed custody FX trades to convert or “repatriate” foreign
26 currency held in the Pension Funds’ custodial accounts into U.S. Dollars, State Street “marked-
27 down” the price the Pension Funds received to an amount far below the Interbank Rate at the time
28 State Street executed the trades.

1 3. State Street concealed its fraudulent pricing practices by entering false exchange
2 rates into its electronic trading databases, which automatically debited the Pension Funds'
3 custodial accounts, and by reporting false exchange rates in numerous documents, including FX
4 Spot Purchase Activity Reports and account statements submitted to the Pension Funds and the
5 Pension Funds' outside investment managers. State Street also entered false exchange rates into
6 its on-line reporting database, MyStateStreet.com, from which the Pension Funds obtained reports
7 detailing their account activity. State Street further disguised its fraudulent scheme by pricing the
8 FX trades within the interbank high and low rate of the day and by failing to provide time stamp
9 data for the trades that would reveal when State Street actually executed the trades.

10 4. State Street's concerns about revealing its fraudulent custody FX pricing practices
11 are reflected in its internal e-mails. When discussing inquiries by the Pension Funds about
12 providing "transparency" in FX execution costs, one Senior Vice President with State Street
13 California commented to other State Street executives that, "[i]f providing execution costs will
14 give [CalPERS] any insight into how much we make off of FX transactions, I will be shocked if
15 [a State Street V.P.] or anyone would agree to reveal the information." Another State Street
16 California executive sought help from State Street executives in formulating a strategy to deflect
17 the Pension Funds' attention away from custody FX "transparency," writing, "[a]ny help you can
18 offer would be appreciated. The FX question is touchy and if we can't provide any further
19 information, we have to somehow get [CalPERS] comfortable with that since our RFP response
20 indicated we could provide execution cost transparency."

21 5. State Street's false claims for unauthorized custody FX "mark-ups" and their
22 concealment of their obligation to pay the Interbank Rate for repatriation trades, which began in
23 2001 and persist to the present day, have resulted in damage to the Pension Funds in an amount
24 exceeding \$56 million.

25 6. On April 14, 2008, Associates Against FX Insider Trading, filed this action
26 pursuant to the *qui tam* provisions of the California False Claims Act. (Gov. Code § 12652, subd.
27 (c).) The People have filed this Complaint in Intervention pursuant to the Attorney General's
28

1 Notice of Intervention and proceed with the action as authorized by Government Code Section
2 12652, subdivision (c)(6)(A).

3 PARTIES

4 7. Attorney General Edmund G. Brown Jr. is the Chief Law Officer of the State of
5 California. He brings this action in the name of the People of the State of California as Plaintiff
6 and real party in interest (hereinafter "the People").

7 8. Associates Against FX Insider Trading is the *qui tam* and a Delaware general
8 partnership.

9 9. Defendant State Street Corporation is a financial holding company, incorporated in
10 Massachusetts and headquartered in Boston. It provides custodial banking and FX services to the
11 Pension Funds through several of its subsidiaries. It touts itself and its subsidiaries as the "No. 1
12 servicer of U.S. pension plans," and as of mid-2009, had \$16.4 trillion in assets under custody and
13 \$1.6 trillion under management.

14 10. Defendant State Street California, a subsidiary of State Street Corp., is
15 incorporated in California, is headquartered in California and has an office in the CalPERS
16 headquarters in Sacramento. It provides custodial banking and FX services to the Pension Funds.
17 State Street California maintains an office in Alameda, which services the Pension Funds'
18 accounts for State Street Bank and Global Markets. State Street California is the entity
19 responsible for the overall business relationship, including client satisfaction, service delivery,
20 quality standards, business profitability and business growth with the Pension Funds.

21 11. Defendant State Street Bank and Trust Company, a subsidiary of State Street Corp.,
22 is incorporated in Massachusetts, is headquartered in Boston, Massachusetts and has offices in
23 California. It also provides custodial banking and FX services to the Pension Funds and is the
24 signatory to the custodial agreements with the Pension Funds.

25 12. Defendant State Street Global Markets, LLC, a subsidiary of State Street
26 Corporation, is incorporated in Delaware and is headquartered in Boston, Massachusetts. It
27 provides specialized investment research and trading in foreign exchange, equities, fixed income
28 and derivatives for the Pension Funds.

1 execute the required FX to fund the transactions, or repatriate foreign currency, the FX trade
2 request was routed electronically via State Street's Market Order Management System (MOMS)
3 from the custody side of State Street for execution and pricing by a group of "risk traders"
4 working at State Street's FX trading desk.

5 27. After receiving custody FX requests through the MOMS system, at some time
6 during the trading day State Street's risk traders executed the custody FX trades by entering the
7 trade information, including the false exchange rates into the MOMS system. The MOMS system
8 automatically fed the trading data into State Street's former accounting network called the IBS
9 system which was later upgraded to a system called Wall Street Systems ("WSS"). IBS/WSS
10 automatically released the custody FX trades to State Street's Multi-Currency Horizon system
11 which debited or credited the Pension Funds' custodial accounts utilizing the false exchange rates
12 entered into MOMS by State Street's risk traders. Sometime in 2005, State Street created a new
13 business group that relieved State Street's risk traders of responsibility for executing and pricing
14 custody FX trades with the Pension Funds. However, State Street's new business group
15 continued the same scheme of executing and pricing custody FX trades with the Pension funds
16 utilizing false exchange rates.

17 28. State Street derived its false exchange rates by taking the Interbank Rate at the
18 time the trades were executed and adding or subtracting "basis points" or "pips" from the rate
19 depending upon whether the Pension Funds were acquiring or repatriating foreign currency. A
20 basis point, or pip, is a unit equal to 1/100th of a percentage point. For example, the smallest
21 move the USD/CAD (U.S. Dollar/Canadian Dollar) currency pair can make is 1/100 of a penny
22 (\$0.0001), or one basis point. When the Pension Funds acquired currency through State Street's
23 custody FX program, State Street's false exchange rates often ranged 25 pips above or below the
24 Interbank Rate and, in some cases exceeded the Interbank Rate by 144 pips. The cumulative
25 effect of these overcharges and underpayments by State Street resulted in over \$56 million in
26 damages to the Pension Funds.

State Street's False Claims, Records, and Statements

1
2 29. As the custodian bank for the Pension Funds, State Street had direct access to the
3 Pension Funds' custodial accounts. With the Pension Funds' money on account with State Street,
4 State Street routinely made false claims for payment from the Pension Funds' custodial accounts
5 by entering fictional FX exchange rates into State Street's MOMS, IBS, WSS and Multi-Currency
6 Horizon System.

7 30. These claims were false because, despite the language in the Pension Funds
8 Contracts, State Street claimed funds using fictional exchange rates substantially outside the
9 prevailing Interbank Rates at the time State Street executed the trades.

10 31. State Street provided both Pension Funds with monthly "FX Spot Purchase/Sale
11 Activity Reports," detailing all custody FX transactions executed for the Pension Funds in order
12 to settle any underlying securities transactions, including repatriation. State Street also
13 downloaded custody FX trading detail onto its on-line reporting database, MyStateStreet.com.
14 These reports and database identified each FX transaction executed by State Street for the
15 Pension Funds. The reports and trading detail were false because the exchange rate they
16 identified and recorded was not the Interbank Rate at the time State Street executed the trades but,
17 rather, an inflated and fictional rate disguising State Street's undisclosed and unauthorized "mark-
18 up" or a reduced rate disguising State Street's undisclosed and unauthorized "mark-down"
19 depending on whether the transaction was a purchase or a sale of foreign currency.

20 32. State Street used these false reports and fraudulent reporting systems for the
21 purpose of obtaining payment or approval of State Street's withdrawal of funds from the Pension
22 Funds' custodial accounts and for the purpose of avoiding payment of the Interbank Rate to the
23 Pension Funds when State Street repatriated the Pension Funds' foreign currency holdings into
24 U.S. Dollars.

25 33. The fraudulent requests, false reports and fraudulent reporting systems alleged
26 herein concealed millions of dollars in State Street's overcharges and underpayments to the
27 Pension Funds, and were material to the Pension Funds' payment and approval of State Street's
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1 false claims and material to State Street avoiding its obligation to pay the Pension Funds at the
2 Interbank Rate when converting foreign currency to U.S. Dollars.

3 The State Street Conspiracy

4 34. State Street has, through their agents, subsidiaries, and/or associated companies,
5 participated in a common law conspiracy to violate Government Code Section 12651, subdivision
6 (a)(7), and a conspiracy in violation of Government Code Section 12651, subdivision (a)(3), by,
7 among other things, creating, servicing, maintaining, and participating in a fraudulent custody FX
8 trading system that State Street used to: (1) generate false claims to funds held in the Pension
9 Funds' custodial accounts; (2) generate false documents to obtain payment and/or approval of
10 debits from the Pension Funds' custodial accounts; (3) generate false documents and records to
11 avoid State Street's obligation to pay the Interbank Rate at the time they executed repatriation
12 trades to convert foreign currency held in the Pension Funds' accounts into U.S. Dollars; and (4)
13 conceal State Street's use of fictitious custody FX rates when executing FX trades for the Pension
14 Funds.

15 35. State Street agreed among themselves that: (1) State Street would route all custody
16 FX trade requests State Street received from the Pension Funds through Global Markets for
17 execution; (2) Global Markets would "mark-up" the custody FX exchange rate above the
18 Interbank Rate at the time it executed custody FX trades with the Pension Funds; (3) Global
19 Markets would "mark-down" the custody FX exchange rates below the Interbank Rate when it
20 executed repatriation trades converting foreign currency held in the Pension Funds' custodial
21 accounts into U.S. Dollars; and (4) Global Markets would enter these false exchange rates into
22 State Street Bank's MOMS system and other electronic trading platforms.

23 36. State Street further knew, intended and agreed that, in direct violation of Pension
24 Fund Contracts, their fraudulent pricing scheme generated false claims for funds held in the
25 Pension Funds' custodial accounts and improperly debited those accounts for custody FX trades
26 using exchange rates substantially outside the Interbank Rate at the time State Street executed the
27 trades. State Street further knew, intended and agreed that, in direct violation of Pension Fund
28 Contracts, their fraudulent pricing scheme generated false records and reports that State Street

1 submitted to the Pension Funds and used to avoid paying the Interbank Rate when State Street
2 executed repatriation trades converting foreign currency held in the Pension Funds' custodial
3 accounts into U.S. Dollars.

4 37. State Street further knew, understood and agreed that this fraudulent pricing
5 scheme would have a material effect on the Pension Funds' decision to continue paying the false
6 claims alleged herein and that the purpose of the scheme was to get the Pension Funds to pay
7 and/or approve State Street's false claims. State Street thereby conspired to, intended and did,
8 defraud the Pension Funds by getting false claims allowed and paid by the Pension Funds in
9 violation of Government Code Section 12651, subdivision (a)(3). State Street thereby also
10 conspired to, intended and did, create and use false statements, records and reports to conceal,
11 avoid and decrease their obligation to pay the Pension Funds in violation of Government Code
12 Section 12651, subdivisions (a)(7) and (a)(3).

13 **FIRST CAUSE OF ACTION**

14 **False Claims Act - Government Code § 12651, subd. (a)(1)**

15 **(Against All Defendants)**

16 38. The People incorporate herein by reference the allegations in paragraphs 1 through
17 33 of this complaint.

18 39. This is a claim for treble damages and penalties brought by the People under the
19 California False Claims Act, Government Code Section 12650 *et seq.*

20 40. State Street knowingly presented or caused to be presented to the Pension Funds
21 false claims for payment of money and false claims to approve debits from the Pension Funds'
22 custodial accounts.

23 41. As a proximate result of the State Street's actions, the Pension Funds suffered
24 damages in a specific amount to be determined at trial.

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1 SECOND CAUSE OF ACTION

2 **False Claims Act - Government Code § 12651, subd. (a)(2)**

3 **(Against All Defendants)**

4 42. The People incorporate herein by reference the allegations in paragraphs 1 through
5 33 of this complaint.

6 43. This is a claim for treble damages and penalties brought by the People under the
7 California False Claims Act, Government Code Section 12650 *et seq.*

8 44. State Street knowingly made, used, or caused to be made or used false records and
9 statements to get false claims for funds from the Pension Funds' custodial accounts paid and
10 approved by the Pension Funds.

11 45. As a proximate result of the State Street's actions, the Pension Funds suffered
12 damages in a specific amount to be determined at trial.

13 THIRD CAUSE OF ACTION

14 **False Claims Act - Government Code § 12651, subd. (a)(7)**

15 **(Against All Defendants)**

16 46. The People incorporate herein by reference the allegations in paragraphs 1 through
17 33 of this complaint.

18 47. This is a claim for treble damages and penalties brought by the People under the
19 California False Claims Act, Government Code Section 12650 *et seq.*

20 48. State Street knowingly made, used, and caused to be made or used false FX Spot
21 Purchase/Sale Activity Reports, false MyStateStreet.com database entries, false statements in
22 their electronic custody FX trading platforms and accounting databases, and other false
23 documents and statements to conceal, avoid and decrease their obligations to pay the Interbank
24 Rate when State Street executed repatriation trades converting foreign currency held in the
25 Pension Funds' custodial accounts into U.S. Dollars in violation of Government Code Section
26 12651, subdivision (a)(7).

27 49. As a proximate result of the State Street's actions, the Pension Funds suffered
28 damages in a specific amount to be determined at trial.

1 **FOURTH CAUSE OF ACTION**

2 **False Claims Act Conspiracy - Government Code § 12651, subs. (a)(7) and (a)(3)**
3 **(Against All Defendants)**

4 50. The People incorporate herein by reference the allegations in paragraphs 1 through
5 37 of this complaint.

6 51. This is a claim for treble damages and penalties brought by the People under the
7 California False Claims Act, Government Code Section 12650 *et seq.*

8 52. Defendants, and each of them, conspired to conceal, avoid and decrease an
9 obligation to pay the State in violation of Government Code Section 12651, subdivisions (a)(7)
10 and (a)(3).

11 53. Defendants, and each of them, intended to defraud the People, and acted in
12 furtherance of the conspiracy to defraud the People by participating in the schemes, set forth
13 above, to falsely report the Interbank Rate at the time State Street executed custody FX
14 transactions with the Pension Funds and to conceal State Street's fraudulent custody FX pricing
15 scheme.

16 54. As a proximate result of the above-described acts, the Pension Funds have been
17 injured and suffered damages in a specific amount to be determined at trial.

18 **FIFTH CAUSE OF ACTION**

19 **Violation of Business & Professions Code §17200, et seq.**

20 **(Against All Defendants)**

21 55. The People incorporate herein by reference all the allegations in paragraphs 1
22 through 37 of this complaint.

23 56. The above described acts by State Street constitute unfair competition within the
24 meaning of Business & Professions Code Section 17200, in that they include, but are not limited
25 to the following fraudulent business practices:

26 a. State Street falsely represented that custodial FX trades executed by State
27 Street for the Pension Funds would be priced at the Interbank Rate at the time the trades were
28 executed;

1 3. Civil penalties in the amount of \$2,500, pursuant to Business & Professions Code
2 Section 17206, for each act by Defendants in violation of Business & Professions Code Section
3 17200;

4 4. For a permanent injunction pursuant to Business & Profession Code Section 17203
5 restraining and enjoining Defendants, and each of them, and all those acting under, by through or
6 on behalf of them, from engaging in or performing directly or indirectly, any or all of the
7 following:

8 a. Making, or conspiring to make, any false claim as set forth in paragraphs
9 through 37;

10 b. Making, conspiring, using, or causing to be made or used false statements,
11 documents or records to avoid the obligation to pay the Pension Funds amounts owed for
12 repatriation of foreign currency as set froth in paragraphs 1 through 37;

13 c. Engaging in any acts of unfair competition described in paragraphs 1
14 through 37, or any other act of unfair competition.

15 5. That Defendants be ordered to make full restitution, pursuant to Business &
16 Professions Code Section 17203, of any money that may have been acquired and/or wrongfully
17 retained by means of their violation of Business and Professions Code Section 17200;

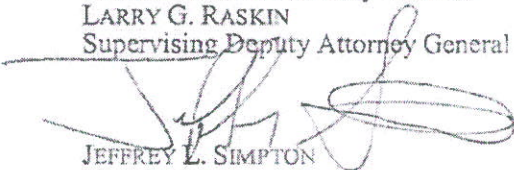
18 6. For costs of suit incurred herein.

19 7. Such further or additional relief as the Court deems proper.

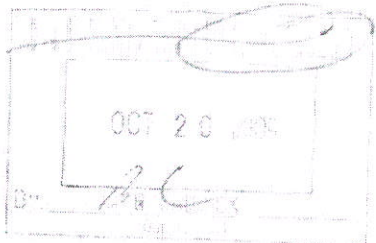
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21 Dated: October 20, 2009

Respectfully Submitted,

22 EDMUND G. BROWN JR.
23 Attorney General of California
24 MARK J. BRECKLER
25 Senior Assistant Attorney General
26 LARRY G. RASKIN
27 Supervising Deputy Attorney General

28 
29 JEFFREY L. SIMPTON
30 Deputy Attorney General
31 Attorneys for the People of the State
32 of California

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12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SACRAMENTO
15

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA *EX REL.* EDMUND G.
18 BROWN JR.,

19 Plaintiff,

20 v.

21 STATE STREET CORPORATION, STATE
22 STREET CALIFORNIA INC., STATE
23 STREET BANK AND TRUST COMPANY,
STATE STREET GLOBAL MARKETS,
AND DOES 1 THROUGH 100, INCLUSIVE.

24 Defendants.

Case No. 34-2008-00008457-CU-MC-GDS
NOTICE OF INTERVENTION

Date: October 20, 2009
Time: 9:00 a.m.
Dept: 53
Judge: Loren E. McMaster
Trial Date: None
Complaint Filed: April 14, 2008
Amended Complaint Filed: May 22, 2008

25
26 FILED IN CAMERA AND UNDER SEAL

27 Pursuant to Government Code section 12652, subdivision (c)(8)(D)(i) and California Rules
28 of Court, rule 2.573(d)

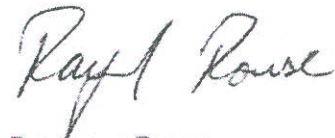
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TO THE SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF
SACRAMENTO:

PLEASE TAKE NOTICE that pursuant to Government Code Section 12652, subdivision
(c)(8)(D)(i) and California Rules of Court, rule 2.573, subdivision (d), the Attorney General's
Office of the State of California elects to intervene in this matter on behalf of the People of the
State of California *ex rel.* California Attorney General Edmund G. Brown Jr.

Dated: October 20 2009

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
MARK BRECKLER
Senior Assistant Attorney General
LARRY G. RASKIN
Supervising Deputy Attorney General
JEFFREY L. SIMPTON
Deputy Attorney General
SYLVIA KELLER
Deputy Attorney General
RICK ACKER
Deputy Attorney General



RAYMOND ROUSE
Deputy Attorney General
*Attorneys for People of the State of
California*

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From: Greenberg, Alison J <ajgreenberg@statestreet.com>
Sent: Wed Oct 21 12:17:40 2009
Subject: California Attorney General Claim

California Attorney General Claim October 21, 2009

Yesterday, the Attorney General of California filed a claim against State Street under the California False Claims Act. We have been working with the State of California in connection with their evaluation of an allegation brought by a whistleblower under the California statute and were surprised and disappointed by this development. We are also extremely concerned by the inflammatory language that was used in the complaint. We categorically deny any wrongdoing and if necessary, we will defend ourselves against these charges.

It is important to note that the Attorney General has based his claim upon language that is specific to custody contracts between State Street and two longstanding clients. We dispute the Attorney General's interpretation of the terms of these custody agreements. The language was negotiated specifically with these two clients, and we believe that we have acted consistently with it.

More specifically, the matter relates to one of the foreign exchange (FX) services that we provide exclusively to investment managers for our custody clients, and whether the way we provide that service was inconsistent with the terms of these clients' custody agreements. Importantly, State Street does not make the decision to execute any of these trades and did not elect to effect trades through State Street or to use these FX services — those decisions were made by the clients' external and internal investment managers. State Street is one of many FX counterparties that the investment managers could select in a highly competitive marketplace. If you have any questions about how we effect FX transactions for you, we would welcome the opportunity to review the various alternatives with you.

We believe that we always act in the best interests of our customers and our shareholders. We are working to resolve this matter with the two clients involved. As has always been our policy, we want to provide you with the information you need to enable you to respond to questions about State Street from your management and customers. If you have additional questions, please, as always, feel free to call myself or Wendy LaBonte at the contact information below.

Cate O'Hara: 917-790-4217, cmo'hara@statestreet.com

Wendy LaBonte: 617-664-9941, wmlabonte@statestreet.com

The information contained in this email and any attachments have been classified as limited access and/or privileged State Street information/communication and is intended solely for the use of the named addressee(s). If you are not an intended recipient or a person responsible for delivery to an intended recipient, please notify the author and destroy this email. Any unauthorized copying, disclosure, retention or distribution of the material in this email is strictly forbidden. - Thank you.



STATE STREET.
Serving Institutional Investors Worldwide™

Yolanda I. Diaz
Vice President

Institutional Investor Services
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October 22, 2009

Mr. Roberto Pena
Retirement Administrator
Fresno County Employees' Retirement Association
1111 H Street
Fresno, California 93721

Re: California Attorney General Claim

Dear Roberto:

On October 20, 2009, the Attorney General of California filed a claim against State Street under the California False Claims Act. We have been working with the State of California in connection with their evaluation of an allegation brought by a whistleblower under the California statute and were surprised and disappointed by this development. We are also extremely concerned by the inflammatory language that was used in the complaint. We categorically deny any wrongdoing and if necessary, we will defend ourselves against these charges.

It is important to note that the Attorney General has based his claim upon language that is specific to custody contracts between State Street and two longstanding clients. We dispute the Attorney General's interpretation of the terms of these custody agreements. The language was negotiated specifically with these two clients, and we believe that we have acted consistently with it.

More specifically, the matter relates to one of the foreign exchange (FX) services that we provide exclusively to investment managers for our custody clients, and whether the way we provide that service was inconsistent with the terms of these clients' custody agreements. Importantly, State Street does not make the decision to execute any of these trades and did not elect to effect trades through State Street or to use these FX services — those decisions were made by the clients' external and internal investment managers. State Street is one of many FX counterparties that the investment managers could select in a highly competitive marketplace. If you have any questions about how we effect FX transactions for you, we would welcome the opportunity to review the various alternatives with you.

We believe that we always act in the best interests of our customers and our shareholders. We are working to resolve this matter with the two clients involved. As has always been our policy, we want to provide you with the information you need to enable you to respond to questions about State Street from your management and customers. If you have additional questions, please, as always, feel free to call me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Yelanda S. Diab". The signature is fluid and cursive, with a large initial "Y" and a stylized "D".

From: Greenberg, Alison J [mailto:ajgreenberg@statestreet.com] **On Behalf Of** O'Hara, Catherine M
Sent: Monday, October 26, 2009 11:49 AM
Subject: California Attorney General Claim Update

In an effort to provide you and our common clients with the most up to date information on the California Attorney General Claim, the client letter has been updated to include greater detail on our FX processes. Please see below.

CALIFORNIA ATTORNEY GENERAL CLAIM OCTOBER 26, 2009

On October 20, 2009, the Attorney General of California filed a claim against State Street under the California False Claims Act. We have been working with the State of California in connection with their evaluation of an allegation brought by a whistleblower under the California statute and were surprised and disappointed by this development. We are also extremely concerned by the inflammatory language that was used in the complaint. We categorically deny any wrongdoing and, if necessary, we will defend ourselves against these charges. We are also working to resolve the matter with the two long-standing State Street clients that are involved.

Because of the publicity surrounding this claim, we want to provide you some facts about foreign exchange services at State Street.

Foreign Exchange Services

As custodian, we facilitate the processing of our clients' foreign exchange transactions. Our clients or their investment managers determine what foreign exchange transactions are appropriate and with which dealer and on what terms those transactions should be executed. In making that determination, the investment manager is generally acting as a fiduciary for the client. These transactions may be with either third-party dealers or with State Street Global Markets, a separate division within State Street in which our foreign exchange business is conducted.

We are very pleased to offer foreign exchange services to our clients and are one of the leading foreign exchange dealers in the United States. Like all foreign exchange dealers, State Street Global Markets acts as a principal (i.e., not as an agent), taking principal positions and risks. The decision whether to effect a foreign exchange transaction, and the manner and terms on which that transaction is carried out, is determined by our clients or most often by their investment managers. As custodian, our role is to process the transaction and not to select the dealer or the method of execution.

If the client or the investment manager decides to execute a foreign exchange transaction through State Street Global Markets, we offer the following three methods of execution:

1. Custody Foreign Exchange Services

The investment manager may elect to use this service to facilitate settlement of foreign exchange transactions involving the purchase, sale and holding of foreign securities. With respect to foreign exchange requests relating to purchase and sale activity, a client or its investment manager instructs (either via standing instructions or an authorized instruction with each security trade) that certain foreign exchange transactions be executed through State Street Global Markets or, when State Street Global Markets does not trade the relevant currency, through the sub-custodian in the local market. Those transaction requests that are able to be executed by State Street Global Markets are accumulated throughout the day and priced on a net basis by currency pair for each investment manager. State Street Global Markets prices on a net basis only at the individual investment manager level and not at the client level or across any subset of investment managers or sub-advisors.

The pricing of foreign exchange transactions executed by State Street Global Markets is based upon market rates at the time of execution plus a mark-up or mark-down, determined by whether an investment manager is a net purchaser or a net seller in a given currency pair. Although the foreign exchange transactions are priced net by currency pair for each investment manager, the transactions are subsequently disaggregated and a single execution rate is then applied to the gross amount of all purchase and sale transactions of the investment manager in a given currency pair, which may result, in some instances, in more favorable pricing for purchase or sale transactions opposite the net position of the investment manager than otherwise would be the case. State Street limits rates applied to custody foreign exchange transactions to rates within the daily high-low range for a currency pair. This service provides consistent pricing and minimizes bid offer spread costs for investment managers and their clients, and also provides straight through processing that eliminates settlement risk.

In addition, when requested by a client or investment manager, State Street provides automated dividend and income repatriation services. Under this service, in accordance with standing instructions provided by the client or their independent investment managers, State Street aggregates a client's income related to their foreign securities holdings across all State Street custody locations and on a set interval determined by the client executes one net trade per currency per portfolio. The pricing for this service is fixed for twenty four (24) hours based upon market rates at the opening of the trading day in Australia time and includes a mark-up or mark-down appropriate to the service.

2. StreetFX[®]

StreetFX allows transactions to be electronically transmitted directly to State Street Global Markets by the investment manager. These transactions are executed by State Street throughout the day as directed by the client or

investment manager and at benchmark rates with a spread agreed upon with the client or investment manager.

3. Sales Traded Foreign Exchange

The investment manager for our client negotiates foreign exchange transactions directly with State Street Global Markets' foreign exchange sales traders and selects us based on their own criteria, which typically includes price, speed to quote, credit worthiness, research, account coverage, electronic trading capabilities and order handling..

State Street Global Markets facilitates execution of foreign exchange transactions by whatever method our clients' investment managers determine best suits their clients' needs.

Pricing and Spreads

Foreign exchange is an over-the-counter market. "Inter-bank" rates are those indicative rates that banks, acting as principal dealers, quote to one another for currency pairs twenty four hours a day, five days a week. There is no single inter-bank rate nor is there consolidated reporting as occurs in the equity markets.

These inter-bank rates change continuously throughout the twenty four hour day. No two market makers will necessarily quote the same rate or bid-offer spread at any given moment in time. The size of the bid-offer spread varies depending on the volatility of prices, which can be affected by the size of the trade, perceived liquidity in the market place, time of day, economic and other data releases or other intra-day factors. These inter-bank rates can be used as wholesale reference prices for foreign exchange transactions, and markups are customarily applied when banks are pricing their clients' transactions.

Reporting

State Street Investor Services provides clients and their investment managers with various means to monitor foreign exchange transactions in their accounts, including mystatestreet.com. If you have questions regarding the reports or other information provided on mystatestreet.com, we are happy to work with you or your advisers in that regard.

We believe that we act in the best interests of our customers and our shareholders. We also appreciate your need to understand the nature of the foreign exchange services that we provide in light of the litigation commenced in California. As has always been our policy, we want to provide you with the information you need to assure you are receiving the highest quality service from us and to enable you to respond to questions about State Street from your management and customers. If you have any questions about how we effect foreign exchange transactions for you, we would welcome the opportunity to review the various alternatives with you.

Cate O'Hara: 917-790-4217, cmo'hara@statestreet.com

Wendy LaBonte: 617-664-9941, wmlabonte@statestreet.com

The information contained in this email and any attachments have been classified as limited access and/or privileged State Street information/communication and is intended solely for the use of the named addressee(s). If you are not an intended recipient or a person responsible for delivery to an intended recipient, please notify the author and destroy this email. Any unauthorized copying, disclosure, retention or distribution of the material in this email is strictly forbidden. - Thank you.