

PRIVILEGED/CONFIDENTIAL/ATTORNEY WORK PRODUCT

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM
Office of Chief Counsel

DATE: March 21, 2006

SUBJECT: AOL/TW

TO: Jeffrey B. Clay
Executive Director

FROM: Gerald Gornish
Chief Counsel

I am pleased to advise that we have received an offer of \$22.5 million re AOL/TW to settle the entire case (including SERS, SWIF and the Tobacco Fund). We are advised that PSERS' share of this is 97.14%. This will translate to approximately \$17 million in net recovery to PSERS, as follows: Our outside counsel has incurred approximately \$900,000 in expenses and is entitled to 19% of the balance. This means that it would receive 19% of \$21.6 million or about \$4 million and we would receive 97.14% of the balance of \$17,496,000 or about \$16,995,000. We are also seeking our share of the \$350 million paid by AOL to the SEC Fair Fund.

The settlement is [in excess of *] the amount we would have received in the class action, based on calculations prepared by and given to us by Defendants' counsel. Outside counsel believes this is an excellent settlement for numerous reasons, which I have discussed with you, and I also am prepared to recommend the settlement to the Board and to discuss the reasons with them in an Executive Session. I also believe that outside counsel would be prepared to discuss her recommendation directly with the Board.

The settlement is not yet ready to be finalized because the principal in-house negotiator for AOL/TW is on vacation until next Monday. In addition, we are seeking to have the offer increased even further. Since, however, we have been told that we will receive our money within 3 weeks of executing documents, I believe it would be appropriate to schedule a special Board meeting to discuss this proposed settlement and to solicit the approval of the Board to delegate settlement authority to staff in at least the amount set forth above.

* Change in original language made to comply with confidentiality agreement

cc: Alan Van Noord, Chief Investment Officer