

NORTH CAROLINA COURT OF APPEALS

STATE EMPLOYEES)
ASSOCIATION OF NORTH)
CAROLINA, INC.)

Plaintiff,)

v.)

NORTH CAROLINA DEPARTMENT)
OF STATE TREASURER, and)
RICHARD H. MOORE, in his capacity)
as Treasurer of the State of North)
Carolina,)

Defendants.)

From Wake County
No. 08 CVS 1597

RECORD ON APPEAL

FILED
2008 OCT 21 P 2:29
CLERK OF SUPERIOR COURT

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STATEMENT OF ORGANIZATION OF SUPERIOR COURT

This matter came before Superior Court Judge James E. Hardin, Jr. on June 12, 2008 for hearing on defendants' Motion to Dismiss for Failure to State a Claim pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. Judge Hardin entered an Order Dismissing Plaintiff's Complaint with Prejudice on July 21, 2008. From that Order, plaintiff filed Notice of Appeal on August 7, 2008.

The Record on Appeal was settled pursuant to Rule 11 of the North Carolina Rules of Appellate Procedure on October 13, 2008, and was filed in the North Carolina Court of Appeals on October 27, 2008, and docketed on November 5, 2008.

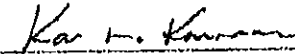
STATEMENT OF JURISDICTION

This action was commenced by the filing of a Complaint on February 1, 2008, and the issuance of summonses for defendants. The defendants were properly served with summons and Complaint on or about February 12, 2008, and the superior court had jurisdiction over all parties and the subject matter of this action.


STIPULATION OF COUNSEL

The parties stipulate and agree that plaintiff will be described and referred to as the appellant in this appeal and that defendants will be described and referred to as the appellees in this appeal.

The parties also stipulate and agree that all defendants were properly served with the summons and complaint, and that the trial court had jurisdiction over all parties and the subject-matter of this action.



Karen M. Kemerait
Counsel for Plaintiff



Kieran J. Shanahan
Counsel for Defendants

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CSV _____

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STATE EMPLOYEES ASSOCIATION OF)
NORTH CAROLINA, INC., et al, CSC)

Plaintiff,)

vs.)

NORTH CAROLINA DEPARTMENT OF)
STATE TREASURER, and RICHARD H.)
MOORE, in his capacity as Treasurer of the)
State of North Carolina,)

Defendants.)

COMPLAINT

The plaintiff, complaining of the defendants, alleges and says:

PARTIES

1. Plaintiff, State Employees Association of North Carolina (hereinafter "SEANC"), is a nonprofit corporation incorporated in North Carolina and authorized by the laws of North Carolina to sue and be sued. SEANC has its principal place of business in Wake County, North Carolina. The maintenance of this lawsuit is in furtherance of SEANC's purposes, which include the promotion of the best interests and welfare of current, retired and future employees of the State of North Carolina.
2. Defendant North Carolina Department of State Treasurer is an agency and department of the State of North Carolina created by N.C. Gen. Stat. § 143A-30.
3. Defendant Richard H. Moore is the Treasurer of the State of North Carolina. He is being sued in his official capacity only. Pursuant to N.C. Gen. Stat. § 143A-30, Defendant Moore is head of Defendant North Carolina Department of State

Treasurer. Pursuant to N.C. Gen. Stat. § 132-2, by virtue of being the public official in charge of Defendant North Carolina Department of State Treasurer, Defendant Moore is the custodian of the public records of Defendant North Carolina Department of State Treasurer.

THE NORTH CAROLINA PUBLIC RECORDS LAW

4. The North Carolina Public Records Law ("the Public Records Law") is codified at N.C. Gen. Stat. §§ 132-1 through 132-10. The public policy underlying the Public Records Law is set out in G.S. § 132-1(b), which provides:

The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, 'minimal cost' shall mean the actual cost of reproducing the public record or public information.

5. The Public Records Law provides, in § 132-1(a), that public records are defined as:

all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.

6. The Public Records Law further provides that "Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law." N.C. Gen. Stat. § 132-6(a).

7. The Public Records Law also provides, in N.C. Gen. Stat. § 132-6(b), that a public agency may charge the requester a fee up to the actual cost to the public agency of making the copies and further provides, in part:

Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency.

8. The Public Records Law provides in N.C. Gen. Stat. § 132-9(a) that:

Any person who is denied . . . copies of public records . . . may apply . . . for a [court] order compelling disclosure or copying, and the court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

SEANC'S PUBLIC RECORDS REQUEST

9. The March 12, 2007, issue of *Forbes* magazine, published in February 2007, contained an article entitled "Pensions, Pols and Payola" insinuating that the Defendant Moore had instituted a "pay for play" system over investment decisions as sole fiduciary for the \$73 billion in the state retirement system, had initially failed to provide public record information about the identity and payments to individual investment fund managers hired or retained by his office, had hired a private law firm to handle *Forbes'* inquiries, and only handed over those records after *Forbes* threatened him

with a lawsuit. A copy of the Forbes' article is attached hereto as Exhibit A and fully incorporated herein by reference.

10. On March 1, 2007, after reading the Forbes' article (Exhibit A) and related stories and editorials in North Carolina newspapers, and after hearing from many SEANC members who were concerned about the accuracy and implications of the Forbes and other news articles, SEANC Executive Director wrote a letter to Defendant Moore on behalf of SEANC requesting the following information in order "[t]o clear up this matter and give you the benefit of responding directly to SEANC members:"

1. All documents from the Office of State Treasurer and the law firm retained regarding the dispute with *Forbes* over the magazine's request for information and the documents provided to Forbes.
2. A complete accounting of how the law firm was paid and the total cost to taxpayers.
3. All investment reports that your office has been required during your tenure to file with the legislature under GS 147-69.3(h)-(i), any other investment reports that have been required to be publicly filed under state law and identification of such reports that have not been filed.
4. A list of all current investment managers, their performance by year (or total time if shorter than a year) and the total fee amounts being paid by your office.

That letter further stated:

State employees deserve answers about the investment practices and swift action to guarantee that political considerations play no role in how their money is handled. The 55,000 members of SEANC await your timely response. SEANC will file a formal public records request if the information above is not received within a reasonable time period.

A copy of that letter is attached hereto as Exhibit B and fully incorporated herein by reference.

11. Later in March 2007 Defendant Moore provided SEANC with copies of nearly 700 pages of public documents in response to Mr. Cope's March 1, 2007, letter (Exhibit B).

12. On October 16, 2007, after SEANC staff had thoroughly examined the copies of public records provided by Defendant Moore in response to Mr. Cope's March 1, 2007, letter (Exhibit B) and had determined that those documents were incomplete and did not fully satisfy the Mr. Cope's request made on SEANC's behalf, and after learning that others had made similar public records requests to Defendant Moore that had not been fulfilled, SEANC Executive Director Dana Cope wrote a second letter formally requesting under the North Carolina Public Records Law the same information in his March 1, 2007, letter. In his October 1, 2007, letter, Mr. Cope also made a new public records request for the following records:

1. All private equity, hedge fund or real estate investments made or maintained by the Treasurer's Office on behalf of the state's pension funds since January 1, 2001. Please provide records that show the following information for each year that the investment was maintained by the Treasurer's Office:
 - a. Name of the fund or partnership
 - b. Name of the principals, fund managers and general partners
 - c. Date of the initial commitment, initial investment and any follow-on communications
 - d. Amount of capital committed and the actual amount of funds paid
 - e. Cash paid out
 - f. Remaining or estimated value
 - g. Internal rate of return
 - h. Investment multiple or return on capital
2. Records that show the fees paid to each external investment manager for the state's pension funds, including brokers, private equity managers, hedge fund managers and real estate investment

- managers since January 6, 2001. Please provide records that show the fees paid on an annual or monthly basis.
3. Records that show the fees paid to each broker, bank or other financial institution that manages or holds the investments, cash and/or deposits in the Cash Management Program from January 6, 2001, to the present. Please provide records that show the fees paid on an annual or monthly basis.
 4. Records that show all stocks held each year by the state retirement systems (including externally managed funds) administered by the State Treasurer from January 6, 2001, to the present.
 5. Records that show the identity of each person who has served on the State Treasurer's investment committee since January 6, 2001. Please provide records that show the dates of service for each advisor, including any SEC investment advisor, registration forms or form ADV's provided to or retrieved by the State Treasurer's Office.

A copy of Mr. Cope's October 16, 2007, letter is attached hereto as Exhibit C and fully incorporated herein by reference.

13. On December 6, 2007, after he had received no response to his October 16, 2007 letter (Exhibit C), SEANC Executive Director Dana S. Cope wrote a third letter on behalf of SEANC to Defendant Moore requesting Defendant to disclose and supply copies of the records requested in Mr. Cope's October 16, 2007, letter by December 31, 2007, or "SEANC will consider taking appropriate legal action to require your compliance with the Public Records Act." A copy of Mr. Cope's December 6, 2007, letter is attached hereto as Exhibit D and fully incorporated herein by reference.

14. Since Mr. Cope's December 6, 2007, letter (Exhibit D), six additional letters have been exchanged between the Department of State Treasurer and SEANC concerning SEANC's public records requests made on March 1 and October 16, 2007. Copies of those letters are attached hereto as Exhibits E, F, G, H, I and J and are fully incorporated herein by reference. In its two of these six

letters, Exhibits G and J, SEANC detailed to defendants the portions of its public records requests that were yet unfilled and expressed its frustration with the Defendants for not have filled its requests. In its last letter (Exhibit J), dated January 24, 2008, SEANC demanded production of the requested documents or convincing evidence of the reasonableness of defendants' failure to fully provide the requested documents by January 29, 2008, or SEANC would fill suit to compel their compliance with the public record laws. SEANC has received no additional documents in response to this demand.

15. In their responses (Exhibits E, F, H and I) to SEANC's December 2007 and January 2008 letters (Exhibits D, G and J), defendants make the following assertions:

- a. As to Dana Cope's March 1, 2007, letter, that defendants have fulfilled the public records request made in that letter.
- b. As to Dana Cope's October 16, 2007, letter, that:
 - (1) Some of the documents provided in response to Dana Cope's March 1, 2007, letter are also responsive to his October 16, 2007, letter;
 - (2) SEANC's request is standing in queue behind other public record requests and will be filled in its turn; and
 - (3) SEANC's request is "overly broad and complex" and will take substantial staff time and resources to fully fill.

STATEMENT OF CLAIM

16. In spite of the facts that it has been eleven months and four and one half months, respectively, since SEANC's initial two public records requests to defendants (Exhibits B and C), defendants have failed to provide copies of a significant portion of the public records requested in Dana S. Cope's March 1, 2007, letter (Exhibit B) and practically all of the public records requested in Dana S. Cope's October 16, 2007, letter (Exhibit C).

17. Upon information and belief, notwithstanding their statements that may be to the contrary, defendants have no legal excuse for not having filled Plaintiff's March 1 and October 16, 2007, public records requests by the date of the filing of this Complaint.

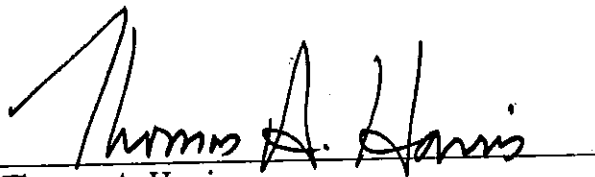
18. The records, copies of which have been requested by plaintiff from the defendants in Exhibits B, C, D, G and J to this Complaint, are public records as defined in N.C. Gen. Stat. § 132-1; therefore by failing to provide plaintiff with copies of these records, defendants are violating the North Carolina Public Records Law, N.C. Gen. Stat. § 132-1, *et seq.* In particular, upon information and belief, defendants have failed to furnish copies of the requested public records "as promptly as possible" as required by N.C. Gen. Stat. § 132-6.

WHEREFORE, the plaintiff respectfully prays unto the court:

1. That this matter be accorded priority and set down for hearing as immediately as possible, pursuant to N.C. Gen. Stat. § 132-9(a);

2. For an order pursuant to N.C. Gen. Stat. § 1-253 et seq. declaring that the records for which plaintiff has requested copies in Exhibits A, B, C, F, and I are public records as defined by N.C. Gen. Stat. § 132-1;
3. For an order, pursuant to N.C. Gen. Stat. § 132-9(a), requiring the defendants to provide plaintiffs with copies of the records for which plaintiff has requested copies in Exhibits A, B, C, F, and I.
4. For an order pursuant to N.C. Gen. Stat. § 132-9(c) awarding the plaintiffs their reasonable attorney fees;
5. That the costs of this action be taxed against the defendants; and,
6. For such other and further relief as the court shall deem necessary and appropriate.

This the 31st day of January, 2008.

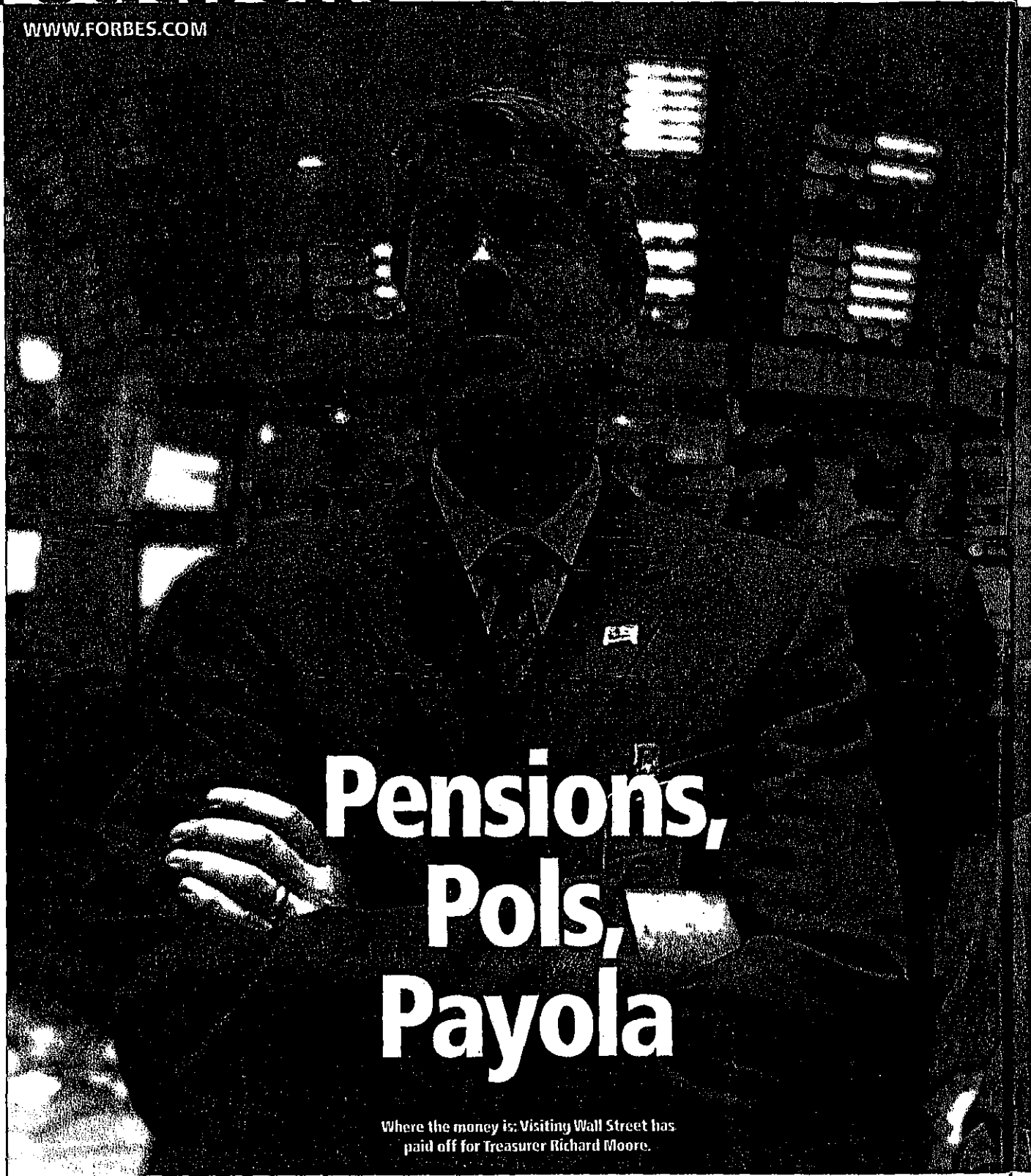


Thomas A. Harris
N.C. State Bar No. 1929
General Counsel
State Employees Association of North Carolina, Inc
P.O. Drawer 27727
Raleigh, N.C. 27611
(919) 833-6436
(919) 829-5829 (facsimile)
tharris@seanc.org

Attorney for Plaintiff.

Outfront

WWW.FORBES.COM



Pensions, Pols, Payola

Where the money is: Visiting Wall Street has paid off for Treasurer Richard Moore.

DAVID KARP / AP

RICHARD MOORE IS AN APPEALING politician—so appealing that, although he won reelection as North Carolina's state treasurer in 2004, last year he landed a \$4,000 contribution from a self-employed interior designer who lives on the

Upper West Side of Manhattan. His benefactor, Julie Marshall, has no real need to fund Moore's likely run for the North Carolina governorship in 2008. "My husband went to a fundraiser [in New York] and afterward was all excited," she says. Her husband, Gerald Marshall, also gave Moore \$4,000; Marshall runs investment firm Amerimar Enterprises.

As state treasurer Moore, a Democrat, is the sole fiduciary for the North Carolina Retirement System, with \$73 billion in assets. He holds sway over which money managers are entrusted to invest funds from the state pension plan. At stake: millions of dollars in fees. He has parlayed this clout into one of the biggest fundraising machines in the state by eagerly accepting contributions from dozens of financial firms that benefit (or could benefit) from his largesse.

Moore, since winning reelection, has raised more than half a million dollars from financiers far outside the Tar Heel State, from Massachusetts to California. His campaign fund got \$381,000 this way, 11% of its total take; a fiscal-education foundation run from Moore's office got \$163,000. Of 90 firms that invest North Carolina funds, 40 have employees that funded his campaign. Employees of another 40 investment firms not working for the state also donated.

That looks like a blatant conflict of interest, yet it is entirely legal in North Carolina, as it is in most of the U.S. State and local governments are a cesspool of pay-to-play. The stakes are huge, with 2,700 state and local pension funds controlling \$2.8 trillion in assets. In the uncertain event that Congress passes real campaign-finance reform at the federal level, payola at the local level is likely to continue.

The case of Richard Moore is particularly galling, for this man has built his career crusading against conflicts of interest on Wall Street. He calls himself "North Carolina's elected guardian of the state treasury" and advises the New York Stock Exchange on good governance. He forces

investment banks that work for the state to swear off conflicts. In 2002, amid a raft of corporate scandals, he grandstanded before a U.S. Senate commerce committee: "We are demanding that broker/dealers and money managers eliminate actual and potential conflict of interest from the way they pay analysts and conduct their affairs."

Moore applies no such prohibitions to himself, and he is unrepentant about it. "I didn't set up the rules, but I play by the rules," he says. "We do not have a culture of pay-to-play in the treasurer's office in the state of North Carolina."

He has been feted at out-of-state fundraisers, two of them in the New York home of Donaldson, Lufkin & Jenrette cofounder Richard Jenrette. His contributors include billionaire financiers Stephen Schwarzman, Nelson Peltz and Paul Tudor Jones (none of whom landed state funds). "I don't know what they think they're going to get," says Moore. "I like to think they respect somebody who runs a good business."

Maybe they hope to get good business for themselves. As Moore duns money managers for dollars, the fees the treasurer's office pays out to them have jumped sixfold under his reign, to \$116 million in the year through last June. North Carolina paid \$15 million in incentives to a Deutsche Bank/RREEF real estate fund last fiscal year in which its closing balance was only \$29 million. (It also paid \$590,000 to Elevation Partners, a minority investor in FORBES; Elevation's employees have not contributed to Moore's campaign.) All told, over half the state's fees, or \$63 million, went to firms that manage just 6.3% of its assets: hedge, private equity and real estate funds. These same firms were disproportionately large contributors to Moore's campaign.

Do these donors beat cheap index funds? The taxpayers of North Carolina might like to know. But Moore's office, in each of his six years as treasurer, has failed to provide the state legislature with a state-mandated annual report detailing his managers' results. Moore's state Web site posts sparse details, mostly from 2005 or earlier; it does not disclose the names of the money managers he hires or their fees.

When asked for the state-mandated reports, Moore said they were unavailable. He handed over data on payments to fund managers only after FORBES prepared to take him to court (his constituents can get their first peek at www.forbes.com).

Did we say unrepentant? This is almost comical: To han-

Like politicians in many states, North Carolina's treasurer takes campaign donations from money managers eager for his business. Yet he rails against conflicts of interest on Wall Street | By Neil Weinberg

Moore's Law

Investment Firm	Assets	Assets	Assets
Moore's Mutual Fund Services	\$1,500	\$62,000	4%
Franklin Street Partners	\$1,500	\$62,000	4%
Castle Harbor Partners	\$1,500	\$62,000	4%
Franklin Street Partners	\$1,500	\$62,000	4%
Parish Capital/Parish Capital	\$1,500	\$62,000	4%
Quallo's	\$1,500	\$62,000	4%
RLJ Development	\$1,500	\$62,000	4%
Shorenstein	\$1,500	\$62,000	4%

de FORBES' inquiries, Moore's office retained the Durham, N.C. law firm of Womble Carlyle Sandridge & Rice, and it turns out lawyers from that firm kicked in \$34,560 to Moore's campaigns.

So what Moore decries as improper ties on Wall Street is more like synergy when it involves the Richard Moore reelection committee. "There's a huge difference between asking for contributions to my campaign and things that go in my own pocket," Moore insists.

Payola for politicians became so rampant in municipal bonds that in 1994 the Securities & Exchange Commission banned muni underwriters from contributing to the campaigns of public officials. The SEC's chairman at the time, Arthur Levitt Jr., sought to extend the ban in 1999 to firms handling public pensions. The financial industry derailed Levitt's bid. "Wrongdoing is still clearly going on in how business is rewarded," Levitt says.

In some states bribery is at work. Maryland's pension fund kept using an underperforming manager who had made illegal contributions to the governor. The manager was convicted of fraud in 2004 that cost Maryland \$4.7 million. New Mexico's past two treasurers got jail time for seeking bribes from outside fund managers.

Moore, 46, is a North Carolina native who attended Wake Forest University School of Law and married Noel Crook, an heiress to the \$2.2 billion H.E. Butt grocery fortune. He served as a federal prosecutor, won election to the state legislature in 1992 and made a failed bid for Congress two years later. In 1995 he was appointed secretary of crime control and public safety. Hurricane Floyd (in 1999) gave him precious exposure. His affinity for television cameras is said to rival that of Geraldo Rivera.

Shortly after he was elected treasurer in 2000, Moore won headlines demanding that Wall Street clean up its act. He also persuaded the state legislature to increase the portion of the pension fund in hedge and private equity funds—from 0.1% to 5%. In support of that effort was Eugene McDonald, former manager of Duke University's endowment, who wrote a paper on it. It turns out McDonald was a member of Moore's five-person

investment committee. After Moore won wider latitude he quickly handed \$400 million to Quellos Asset Management, a private equity firm in Seattle. Quellos' investment chief, Eugene McDonald. Moore stuck with Quellos after it was slammed in 2005 for flogging tax shelters that the U.S. Senate declared "a bowl of spaghetti." Cost to U.S. taxpayers: \$300 million.

Asked about this, Moore said McDonald joined Quellos only after the firm got state pension money—which is untrue.

Informed of his misstatement, Moore was undaunted, saying that even "if I had known about it, I don't think it would have made any difference." Quellos says it has returned "superior results," but in fact it earned North Carolina a middling 7% annually (versus 14.9% for the S&P 500) the past three years. It reaped \$6.1 million from Moore's office last fiscal year. Quellos execs, including McDonald, have contributed \$16,000 to Moore's campaign.

Moore's investment chief, Andrew Silton, went part-time in 2003 and picked up work with Franklin Street Partners. Moore has \$400 million invested with this Chapel Hill, N.C. hedge fund and paid it \$5.5 million in the last fiscal year. Moore took in \$15,000 from Franklin Street officials. Shorenstein Realty Investors handles \$75 million in state pension money and got a \$1.2 million fee in the last fiscal year. Owner Douglas Shorenstein held a fundraiser for Moore in San Francisco and with colleagues has given him \$18,000.

Billionaire Robert Johnson of BET and seven employees of his RLJ Development kicked \$23,000 into Moore's fund. Moore agreed in 2005 to send \$50 million to RLJ for investing. Fourteen execs at Bank of New York gave \$22,757 to Moore. His office uses the bank for securities custody.

Tracking Moore's results is difficult. The state auditor found in 2005 that 40% of his high-risk fund managers ran 6 to 18 months late supplying returns data. One data set, though, shows they are trailing behind industry benchmarks: In five years hedge and private equity funds returned 2.3% annually for the state against a benchmark of 7.7%, real estate funds 10.5% versus the benchmark 11.9%. Moore hit up 28 of these lavishly paid managers for \$211,700.

Connecticut, New Jersey and the largest California public employees pension fund have banned political contributions from money managers. In North Carolina the constitution states pension funds cannot be used for "any purpose other than retirement benefits." Except maybe running for governor. **F**

Additional reporting by Jason Storbakken.

STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA, INC.

March 1, 2007



The Honorable Richard H. Moore
 State Treasurer
 325 North Salisbury Street
 Raleigh, NC 27603-1385

Dear Treasurer Moore:

It is with great regret that I write this letter. Members of the State Employees Association of North Carolina (SEANC) and I are reading news stories and editorials about the investment of state employee retirement funds during your tenure as North Carolina State Treasurer and are seeking answers to troubling questions.

Most serious are the allegations in *Forbes* magazine's recent article, "Pensions, Pols and Payola," that your office instituted a "pay to play" system over investment decisions, that your office refused to provide public record information about the identity and performance of individual investment managers hired or retained by your office, paid a private firm to fight *Forbes'* public records request and did not agree to hand over data until *Forbes* threatened legal action. This surprised the association and seemed inconsistent with your stated belief in disclosure and transparency regarding investment practices.

To clear up this matter and give you the benefit of responding directly to SEANC members, I respectfully request that you provide SEANC with the following information:

1. All documents from the Office of State Treasurer and the law firm retained regarding the dispute with *Forbes* over the magazine's request for information and the documents provided to *Forbes*.
2. A complete accounting of how the law firm was paid and the total cost to taxpayers.
3. All investment reports that your office has been required during your tenure to file with the legislature under GS 147-69.3(h)-(i), any other investment reports that have been required to be publicly filed under state law and identification of such reports that have not been filed.
4. A list of all current investment managers, their performance by year (or total time if shorter than a year) and the total fee amounts being paid by your office.

State employees deserve answers about the investment practices and swift action to guarantee that political considerations play no role in how their money is handled. The 55,000 members of SEANC await your timely response. SEANC will file a formal public records request if the information above is not received within a reasonable time period.

Thank you in advance for your cooperation in this matter. The future of state employees' retirement security is riding on your answers.

Sincerely,

Dana S. Cope
 Executive Director



STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA, INC.

October 16, 2007

The Honorable Richard H. Moore
State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385

VIA HAND DELIVERY

Dear Treasurer Moore:

I write to make an official public records request on behalf of the 55,000 members of the State Employees Association of North Carolina. On March 1, 2007, SEANC requested documents and information related to the investment of state employee retirement funds during your tenure as North Carolina State Treasurer. After reviewing the nearly 700 pages of information, we find that it only contains incomplete annual reports and an alphabetical listing of broad categories of investment funds, but not the information requested in our letter (attached). Thus, I write again to officially request this information.

Especially in light of recent press reports regarding your office's failure to comply with other public records requests regarding the state pension system, we respectfully request that in addition to records requested in our March 1 letter that your office provide us with copies of the following records:

1. All private equity, hedge fund or real estate investments made or maintained by the Treasurer's Office on behalf of the state's pension funds since January 1, 2001. Please provide records that show the following information for each year that the investment was maintained by the Treasurer's Office:
 - a. Name of the fund or partnership
 - b. Name of the principals, fund managers and general partners
 - c. Date of the initial commitment, initial investment and any follow-on communications
 - d. Amount of capital committed, and the actual amount of funds paid
 - e. Cash paid out
 - f. Remaining or estimated value
 - g. Internal rate of return
 - h. Investment multiple or return on capital
2. Records that show the fees paid to each external investment manager for the state's pension funds, including brokers, private equity managers, hedge fund managers and real estate investment managers since January 6, 2001. Please provide records that show the fees paid on an annual or monthly basis.
3. Records that show the fees paid to each broker, bank or other financial institution that manages or holds the investments, cash and/or deposits in the Cash Management Program from January 6, 2001, to the present. Please provide records that show the fees paid on an annual or monthly basis.
4. Records that show all stocks held each year by the state retirement systems (including externally managed funds) administered by the State Treasurer from January 6, 2001, to the present.

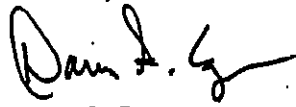
Richard H. Moore
October 16, 2007
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5. Records that show the identity of each person who has served on the State Treasurer's investment committee since January 6, 2001. Please provide records that show the dates of service for each advisor, including any SEC investment advisor, registration forms or form ADV's provided to or retrieved by the State Treasurer's Office.

As State Treasurer, you have worked to increase corporate transparency on Wall Street. I would ask that you lead by example and uphold the same standard of transparency that you expect of others by fulfilling this public records request.

Thank you for prompt attention to this matter. I look forward to hearing from you in the near future to let me know when we can expect this information.

Sincerely,



Dana S. Cope
Executive Director

**STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA, INC.**

December 6, 2007

The Honorable Richard H. Moore
State Treasurer
325 North Salisbury Street
Raleigh NC 27603-1385

Dear Treasurer Moore:

This is a follow up to my letter of October 16, 2007, in which I made a public records request on behalf of SEANC asking you to disclose certain public documents and information related to the investment of the funds in the Teachers' and State Employees' Retirement System. As of this date, I have not received any of the records requested in that letter.

The Public Records Act provides in G.S. 132-6(a) that every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. Insofar as my October 16 letter was a reiteration of a similar request first made on March 1, 2007, SEANC believes that you have had ample time to disclose and supply copies of the documents specified in those requests.

Therefore, SEANC requests that you disclose and supply copies of the public documents requested in my October 16, 2007, a copy of which is enclosed, letter by December 31, 2007, or SEANC will consider taking appropriate legal action to require your compliance with the Public Records Act.

Thank you for your timely attention to the request.

Very truly yours,

A handwritten signature in cursive script that reads "Dana S. Cope".

Dana S. Cope
Executive Director

Enclosure



North Carolina
 Department of State Treasurer

RICHARD H. MOORE
 STATE TREASURER

325 NORTH SALISBURY STREET
 RALEIGH, NORTH CAROLINA 27603-1385

December 21, 2007

Ms. Erica Baldwin
 Assistant Director of Communications
 SEANC
 P.O. Drawer 27727
 Raleigh, NC 26711

Dear Ms. Baldwin:

Thank you for SEANC's recent letter regarding your public records request with the Department of State Treasurer. From your letters and statements made to WRAL and other media outlets, it is clear that you view this request as a reiteration of your March 1 request and that you believe there are still outstanding documents from this request. As you know, the Department has previously provided you with numerous public documents totaling more than 700 pages. These documents included:

- Detailed lists of the investment managers for the pension fund;
- Returns by specific fund or manager;
- Fees paid to specific managers;
- Annual pension fund returns;
- Annual reports for the pension fund and its investments;
- Stocks held by the pension fund;
- Fixed income holdings of the pension fund; and
- Funding ratios for the pension fund.

As you may be aware, I am currently the sole Public Information Officer for the Office of the State Treasurer. Given the season, we are inundated with public information requests, some quite complex. If your request is urgent, it would be helpful if you prioritized and narrowed your requests. We believe the information we provided fully answered your original request of March 1, 2007. If you believe this is not accurate, please provide me with a list of the specific information that was not included with the original documents provided to you. With this information, we will work to ensure that you have the information you need.

Thank you for your interest in our pension fund.

Sincerely,

Sara Y. Lang
 Director of Communications



RICHARD H. MOORE
STATE TREASURER

North Carolina
Department of State Treasurer

EXHIBIT F

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

January 7, 2008

Mr. Dana Cope
SEANC
P.O. Drawer 27727
Raleigh, NC 26711

Dear Mr. Cope:

The Department of State Treasurer continues to work to provide you and the members of SEANC with accurate information regarding our pension fund. After your March 1, 2007 public records request, the Department responded within three weeks by both hand-delivering more than 700 pages of documents to you and making the Treasurer personally available for an hour and a half to discuss any of SEANC's questions about the pension fund. Upon delivery, it was noted that these were all the public records available at the time of delivery. Once we provided the requested documents that were in our custody, we considered the request fulfilled and the matter closed.

However, we continue to hear from reporters and other third-party sources that you believe your request was not fulfilled. Unfortunately, you have not responded to our letter requesting a list of the specific items missing. However, I understand that you have spoken with the News & Observer and shared with them that you believe you are missing billing information related to the Forbes article published in March 2007. While such documents were not in our possession at the time we fulfilled your request, in an attempt to resolve this matter, we provide the following:

The Department utilized the services of its investment counsel, Womble Carlyle, which has special expertise in the investment law and contracts established by the Department, as well as public records law and trade secret provisions. With regard to consultation and review related to providing public records to Forbes magazine, WCSR billed the Department in the amount of \$1,995.00. This amount was paid in June 2007.

To reiterate, the Department was pleased to fulfill your public records request of March 2007 that same month and close the request. We have now supplemented the information provided to you with more current information. As indicated in our December 21 letter, if you still believe there are documents you have not received pursuant to your requests, please indicate specifically what you believe is missing, and we will be happy to assist you.

Sincerely,

A handwritten signature in cursive script that reads "Sara Y. Lang".

Sara Y. Lang
Director of Communications

**STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA, INC.**

January 15, 2008

The Honorable Richard H. Moore
State Treasurer
325 North Salisbury Street
Raleigh NC 27603-1385

Dear Treasurer Moore:

This is in response to the two letters that your Director of Communications, Sara Y. Lang, has written on your behalf in reply to my December 6, 2007, letter in which I demanded disclosure by December 31, 2007, of the public documents requested in my letters to you on March 1 and October 16, 2007.

Through Ms. Lang's letters you assert that you have provided the documents requested by SEANC and request, if SEANC believes this is not accurate, that we provide you with a detailed list of the documents not yet provided. Obviously, I would not have written my December 6 letter if SEANC had not thoroughly reviewed the documents previously provided and found them to be lacking much of what had been requested. While my March 1 and October 16 letters describe in great detail the documents sought, and I believe it must be obvious what has not yet been included to the persons who assembled the documents thus far provided, for the purpose of obtaining those documents as quickly and completely as possible, I detail below the documents omitted from those initially disclosed. For your convenience, I am enclosing copies of my March 1 and October 16 letters and will refer to each numbered request made in those letters:

As to my March 1, 2007 letter:

1. To date, you have provided only a letter written on February 9, 2007, by the retained law firm to Forbes Media in response to its public records request. It is clear from that letter that there was prior correspondence between the Department of State Treasurer and Forbes, including Forbes request for production of documents on February 6, 2007, and correspondence between Neil Weinberg, Forbes Media Senior Editor, and Sara Lang. There may also have been later correspondence, as the letter ends with an invitation to Forbes Media to request additional documents. None of this has been provided yet.

It is also evident that you have not provided SEANC with all the documents provided to Forbes Media in response to its public document request. The second numbered paragraph in your attorney's February 9, 2007, letter to Forbes Media mentions that the Department of State Treasurer had previously provided Forbes with, among other things, the initial year of investment with each private investment fund and manager in which the Retirement Systems assets are invested. There is no document containing such information among those provided to SEANC to date.

2. In her letter of January 7, 2008, Ms. Lang relates the amount of the fee paid to the law firm, but says nothing about the source of the funds used to pay that fee. Thus, the documents produced to date lack accounting documents revealing the source of the funds used to pay the fee, i.e., pension funds, general fund appropriation or other source.

3. You still have not provided any of the reports specified in G.S. 147-69.3(h) & (i). Among the documents you did provide is a February 9, 2007, letter from your attorney to Forbes Media stating that your report to the Joint Operations Committee dated February 8, 2007, contains all the information that would be necessary to compile the reports specified in G.S. 147-69.3(h) & (i), "which reports are not available." Please verify whether that statement means that reports specified in G.S. 147-69.3(h) & (i) were never compiled or filed, or whether they are just "unavailable." If they were compiled or filed, please provide them. Otherwise, please explain why they "are not available."

4. You have provided lists of investment managers for equity holdings, real estate holdings, alternative holdings and hedge fund holdings as of June 30, 2006, and for all the same holdings except the hedge fund, as of December 31, 2005. The most current lists, which would be for 2007, have not been provided. Moreover, the documents you have provided to satisfy the additional information requested regarding each of these fund managers is incomplete. You have yet to provide records showing each fund manager's performance for each year they have managed funds for the Retirement System and the total fee amounts paid to each of them by your office for each year.

As to the documents requested in my October 16, 2007, letter that were in addition to those requested in my March 1 letter:

1. You still have not provided documents showing all equity, hedge fund or real estate investments made or maintained since January 1, 2001, nor have you provided records showing, for each year the investment was maintained, the information specified in a. - h. of this request.

2. You have not yet provided documents showing the fees paid to each external fund manager by year or by quarter since January 1, 2001. The documents you did provide only cover partial years in 2005 and 2006. Those documents do not indicate time period for which the fees were paid except as to hedge fund manager fees.

3. You have not provided any records in response to this request.

4. While you have provided lists of equity holdings and fixed income holdings as of March 31, 2006, you have not provided lists of all stock holdings each year from January 1, 2001.

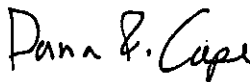
January 15, 2008

Page 3

5. You have not provided any records in response to this request.

It has been more than ten months since my first request and nearly three months since my second. Insofar as you have had more than a reasonable period of time to produce the requested records as required by the North Carolina public records law, SEANC is prepared to file a lawsuit to compel you to comply with that law. If you do not produce the requested public records by 5:00 p.m. on Friday, January 18, 2008, SEANC will file such a lawsuit.

Very truly yours,



Dana S. Cope
Executive Director

Enclosures



North Carolina²⁵
Department of State Treasurer

RICHARD H. MOORE
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

January 18, 2008

Mr. Dana Cope
SEANC
P.O. Drawer 27727
Raleigh, NC 26711

Dear Mr. Cope:

Thank you for your January 15th letter regarding your public records request from October 16, 2007. The Department is working to fulfill this request in accordance with our public records policy of "first come, first served." This request is overly broad and complex, requiring documents from numerous sources and time periods. Therefore, it will take significant staff time and pension fund money in order to fully comply. If your request is urgent, please prioritize the documents requested. Additionally, if there are specific documents of particular interest, please notify us, and we will provide those specific documents as quickly as possible.

You have already received several documents covered under this request:

- Regarding item 1 of your October 16th request, you previously received information regarding the managers, funds, date of initial investment, amount of commitment, market value and performance for investments for the years ending 12/31/2005 and 6/30/2006.
- Regarding item 2 of your October 16th request, you previously received the fees paid to managers for the years ending 12/31/2005 and 6/30/2006.
- Regarding item 4 of your October 16th request, you previously received the list of stock holdings as of 2006.

In addition, please find the public records that respond to your request for information on the Investment Advisory Committee, listed as item 5 in your October letter. These records, minutes of the Investment Advisory Committee meetings from March 28, 2001 to August 22, 2007, amount to 28 pages. In accordance with Department of Administration policy, the Department charges \$0.10 per page for copying after the first 20 pages. Therefore, please send a check in the amount of \$0.80 to my attention. The check may be made out to NCDST.

Thank you again for your interest in the Department of State Treasurer.

Sincerely,

Sara Y. Lang
Director of Communications



North Carolina
Department of State Treasurer

RICHARD H. MOORE
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

January 18, 2008

Mr. Dana Cope
SEANC
P.O. Drawer 27727
Raleigh, NC 26711

Dear Mr. Cope:

Thank you for your January 15th letter regarding your public records request from March 1, 2007. The Department of State Treasurer fulfilled your original request within the statute and spirit of the public records law by supplying more than 700 pages of documents and making Treasurer Moore available to answer detailed questions from your members. Some of the confusion may be due to the fact that your original request was overly broad and lacked specificity. Your most recent letter has both clarified and expanded the March 1 request. Although the original March 1 request was fulfilled, we are happy to provide the additional information that you are seeking. I will respond to each item as you enumerated in your letter, so that all information is as clear as possible.

1. Previously, this item was fulfilled when you received documents supplied to Forbes, as well as correspondence from Womble Carlyle regarding the magazine's public records requests. Since you have now chosen to clarify this request and provide additional details, attached are e-mails exchanged between me and representatives of *Forbes*.

SEANC received the standard tables of investment information that have been provided to numerous media outlets and organizations, fulfilling the request for information related to investment managers, performance and fees. We are supplying these tables again since it seems you are unable to locate them within the 700 pages of documents provided.

2. As stated in our January 7th letter, public documents regarding the payment to Womble Carlyle regarding *Forbes* were not in our possession at the time the March 1 records request was fulfilled. As you note, the Department previously sent information on the amount paid. Now that you have requested additional information on the source of payment, please find attached the accounting document containing that information.
3. The information specified in G.S. 147-69.3 (h) and (i) is provided to both the General Assembly and the public through the quarterly reports issued to the Joint Legislative Committee on Governmental Operations. These reports are available on the Department's website at <http://www.nctreasurer.com/dsthome/InvestmentMgmt/GovernmentOperationsReports/>. In case you cannot access these documents online, please find these reports from May 10, 2001 to November 8, 2007 attached. In addition, we provide

this data to the General Assembly and other entities through a number of means, including through our annual reports.

4. When your March 1 request was fulfilled, you received the most up-to-date information available regarding investment managers. This item, seeking more recent data on managers as well as historical performance data for each manager, is so expanded as to constitute a new request. The requested information is also part of the large public records request you submitted on October 16, 2007 and is best dealt with as part of that request.

The documents included with this letter amount to 162 pages. In accordance with Department of Administration policy, the Department charges \$0.10 per page for copying after the first 20 pages. Therefore, please send a check in the amount of \$14.20 to my attention. The check may be made out to NCDST.

Again, thank you for your letter. Although the March 1 request was fulfilled that same month, we are glad to provide you and the members of SEANC with this additional information. We hope you find these documents useful, and we are pleased to complete your expanded March 1 request.

Sincerely,



Sara Y. Lang
Director of Communications

**STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA, INC.**

January 24, 2008

The Honorable Richard H. Moore
State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385

VIA HAND DELIVERY

Dear Treasurer Moore:

This is in response to the two letters that your Director of Communications, Sara Y. Lang, has written on your behalf in reply to my letter of January 15, 2008, in which I listed the documents requested in my letters of March 1 and October 16, 2007, that you have not yet provided and demanded that you provide those records by January 18, 2008.

In her letter addressing my March 1, 2007, letter, Ms. Lang attaches copies of documents supplementing those previously provided and asserts that you have now provided all records requested in that letter. However, I still find the documents produced lacking in the following particulars:

As to paragraph 1 of that letter, one set of documents I requested was all documents from the Office of State Treasurer and its retained law firm "regarding the dispute with Forbes over the magazine's request for information." Initially, the only document that you provided in response to that part of my request was a letter from your retained attorney to Forbes. With Ms. Lang's January 18 letter you appear to have provided most of the e-mail correspondence from representatives of Forbes to Sara Lang. However, it is clear that not all documents containing correspondence from Forbes has been provided. The January 19, 2007, 3:43 p.m. e-mail from Kai Falkenberg to Ms. Lang refers to an attached letter "a copy of which --with enclosures-- has also been sent to you by fax." You have provided neither that letter nor the enclosures. Moreover, Neil Weinberg's message on the same date refers to a letter faxed to Ms. Lang from Forbes' attorney. If this is not the same letter referred to by Ms. Falkenberg, then you have not provided a copy of it.

In addition, except for some responses that are attached to the Forbes e-mails, you have not provided all responses from Ms. Lang to Forbes. For example, attached to the February 14, 2007, e-mail message from Jason Storbakken is an e-mail from Ms. Lang stating: "Please see answers inserted in your original e-mail below." However, you have not produced the e-mail that contains Ms. Lang's answers. Moreover, attached to Jason Storbakken's message of February 14, 2007, 6:16 p.m., is a message stating: "On 2/14/07 PM, 'Sara Lang' Sara.Lang@nctreasurer.com wrote:" but the text of Ms. Lang's message is omitted. It is difficult for me to draw

Treasurer Richard H. Moore
January 24, 2008
Page 2

any conclusion except that Ms. Lang's message has been intentionally deleted from the document.

Finally, based on the size of the fee paid to the retained law firm and, thus, the number of hours that firm must have worked on this issue, it would appear that there must have been electronic or written correspondence between your office and that law firm regarding the Forbes public information request. However, no copies of any such correspondence have been produced.

In sum, you have still not provided copies of all documents, including the ones identified above, regarding your office's dispute with Forbes over its request for information.

As to paragraph 4 of the March 1, 2007, letter, Ms. Lang states that the clarification in my January 15, 2008, letter that I am seeking performance data and total fees paid to all investment managers "for each year" is a new public records request. I regret that Ms. Lang has so misconstrued my initial request. In fact, my March 1, 2007, letter clearly asks for the information "by year." As evidenced by the reports that you have already provided, the other reports that I have requested are apparently from a set of reports routinely compiled and readily accessible for copying. I can see no excuse for your not having provided me with copies of those reports in accordance with my request.

In her letter addressing my October 16, 2007, request letter, Ms. Lang admits, with the exception of a few documents provided in response to my March 1, 2007, letter that were also responsive to my October request, that my October 16 request has not been fulfilled. Her letter implies, without clearly stating, that my October 16 request is in queue behind older public records requests in accordance with your department's "first come, first served" policy. However, it is difficult for me to believe that there are other public record requests pending in your office that are more longstanding than my request made more than three months ago. I still believe that you have had reasonable time to fulfill my request.

In light of the above, SEANC is still prepared to file a lawsuit to compel you to comply with the public records law unless you provide the following by 5:00 p.m. on Tuesday, January 29, 2008:

1. Copies of all remaining documents not yet provided in response to my March 1, 2007, request.
2. Either copies of all remaining documents not yet provided in response to my October 16, 2007, request or convincing evidence that your office has acted responsibly and reasonably, as required by the public records law, in responding to my October 16, 2007, request, consisting of the following:

Treasurer Richard H. Moore
January 24, 2008
Page 3

(a) Copies of all outstanding public records requests that were pending in your office as unfilled requests at the time your office received my October 16, 2007, letter. Please include both written requests and requests that were made orally and that have been reduced to writing or electronic document by your office and state the extent, if any, that each request has already been filled.

(b) A statement identifying the members of your staff assigned to fill public records requests and the total number of hours per week that each such staff member has spent filling public records requests since March 1, 2007, or the earliest unfilled request reportedly standing in line ahead of my October 16, 2007, whichever is earlier.

Very truly yours,

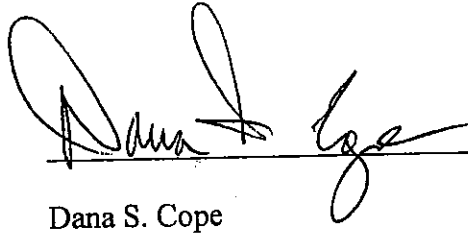


Dana S. Cope
Executive Director

NORTH CAROLINA
COUNTY OF WAKE

VERIFICATION

I, Dana S. Cope, being first duly sworn, depose and say that I am the Executive Director of the Plaintiff State Employees Association of North Carolina, Inc., and I have the authority to make this verification; I have read the foregoing complaint and I have knowledge of the allegations set forth based upon my review of the records of Plaintiff; and that these allegations are true to the best of my knowledge, except for those allegations set forth upon information and belief, and as to those allegations, I believe them to be true.



Dana S. Cope

Sworn to and subscribed
before me this 15th day
of February, 2008.

Patricia J. Guss

Notary Public

My commission expires 2-04-2008

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CVS 1597

2008 MAR 13 P 4: 19

STATE EMPLOYEES ASSOCIATION OF
NORTH CAROLINA, INC.,
Plaintiff,

v.

NORTH CAROLINA DEPARTMENT OF
STATE TREASURER, and RICHARD H.
MOORE, in his capacity as Treasurer of the
State of North Carolina,
Defendants.

ANSWER

NOW COME the Defendants in the above-captioned action and, responding to the Complaint, answer and allege as follows:

PARTIES

1. It is admitted that SEANC is a nonprofit corporation incorporated in North Carolina, authorized by the laws of North Carolina to sue and be sued, and has its principal place of business in Wake County, North Carolina. The remaining allegations of ¶ 1 of Plaintiff's Complaint are denied.

2. The allegations contained in ¶ 2 of Plaintiff's Complaint are admitted.

3. The allegations contained in ¶ 3 of Plaintiff's Complaint are admitted.

THE NORTH CAROLINA PUBLIC RECORDS LAW

4. As to the allegations contained in ¶ 4 of Plaintiff's Complaint, it is admitted that the North Carolina Public Records Law ("the Public Records Law") is codified at N.C. GEN. STAT.

§§ 132-1 through 132-10. It is further admitted that N.C. GEN. STAT. §132-1(b) speaks for itself. Except as expressly admitted, the allegations of ¶ 4 are denied.

5. As to the allegations contained in ¶ 5 of Plaintiff's Complaint, it is admitted that N.C. GEN. STAT. §132-1(a) speaks for itself. Except as expressly admitted, the allegations of ¶ 5 are denied.

6. As to the allegations contained in ¶ 6 of Plaintiff's Complaint, it is admitted that N.C. GEN. STAT, §132-6(a) speaks for itself. Except as expressly admitted, the allegations of ¶ 6 are denied.

7. As to the allegations contained in ¶ 7 of Plaintiff's Complaint, it is admitted that N.C. GEN. STAT, §132-6.2(b), rather than N.C. GEN. STAT, § 132-6(b), includes the language quoted in ¶ 7 of Plaintiff's Complaint and that N.C. GEN. STAT, § 132-6.2(b) speaks for itself. Except as expressly admitted, the allegations of ¶ 7 are denied.

8. As to the allegations contained in ¶ 8 of Plaintiff's Complaint, it is admitted that N.C. GEN. STAT, § 132-9(a) speaks for itself. Except as expressly admitted, the allegations of ¶ 8 are denied.

SEANC'S PUBLIC RECORDS REQUEST

9. As to the allegations contained in ¶ 9 of Plaintiff's Complaint, it is admitted that *Forbes* magazine ran an article featuring Treasurer Moore, that a copy of that article is attached to the Complaint as Exhibit A, and that the article speaks for itself. The remaining allegations of ¶ 9 are denied.

10. As to the allegations contained in ¶ 10 of Plaintiff's Complaint, it is admitted that the March 1, 2007 letter from Dana Cope to Treasurer Moore, a copy of which is attached to the

Complaint as Exhibit B, speaks for itself. As to the remaining allegations of ¶ 10, Defendants are without sufficient knowledge or information to admit or deny the allegations in ¶ 10, and therefore, those allegations are denied.

11. As to the allegations contained in ¶ 11 of Plaintiff's Complaint, it is admitted that on or about March 27, 2007, the Office of the Treasurer delivered approximately 700 pages of documents to SEANC. It is further affirmatively asserted that on that same date, State Treasurer Moore personally met with SEANC's Board of Governors, including Executive Director Dana Cope and Board President Linda Sutton, and gave an approximately 90-minute presentation on the status of the pension fund to accompany the delivery of the more than 700 pages of documents. It is further affirmatively asserted that after the presentation and a question-and-answer period, Treasurer Moore was informed by several SEANC Board of Governor members that they were satisfied with his response, and that Ms. Sutton informed Mr. Moore that he had answered all her questions.

12. As to the allegations contained in ¶ 12 of Plaintiff's Complaint, it is denied that Dana Cope wrote a letter to Treasurer Moore dated October 1, 2007, but admitted that a new public records request dated October 16, 2007, from Dana Cope to Treasurer Moore, a copy of which is attached to the Complaint as Exhibit C, speaks for itself. Defendants are without sufficient information or belief to admit or deny the remaining allegations contained in ¶ 12 of Plaintiff's Complaint, and therefore, those allegations are denied.

13. As to the allegations contained in ¶ 13 of Plaintiff's Complaint, it is admitted that the December 6, 2007 letter from Dana Cope to Treasurer Moore, a copy of which is attached to the Complaint as Exhibit D, speaks for itself. Defendants are without sufficient information or belief

to admit or deny the remaining allegation contained in ¶13 of Plaintiff's complaint, and therefore, those allegations are denied.

14. As to the allegations contained in ¶ 14 of Plaintiff's Complaint, it is admitted that the six letters between SEANC representatives and the Office of the Treasurer, dated December 21, 2007, January 7, 2008, January 15, 2008, January 18, 2008 (2 letters), and January 24, 2008, copies of which are attached to the Complaint as Exhibits E-J, speak for themselves. It is further denied that additional documents were not made available for Plaintiff's inspection between January 24, 2008, and the filing of this action. Defendants are without sufficient information or belief to admit or deny the remaining allegations contained in ¶14 of Plaintiff's Complaint, and therefore, those allegations are denied.

15. As to the allegations contained in ¶ 15 of Plaintiff's Complaint, it is admitted that the letters to SEANC representatives from the Office of the Treasurer, referenced in ¶ 14 herein speak for themselves. Except as expressly admitted, any remaining allegations of ¶ 15 are denied.

STATEMENT OF CLAIM

16. The allegations contained in ¶ 16 of Plaintiff's Complaint are denied.

17. The allegations contained in ¶ 17 of Plaintiff's Complaint are denied, and it is affirmatively alleged that, except insofar as any documents may be excepted from Plaintiff's public records request as "trade secrets" within the meaning of N.C. GEN. STAT. §§ 132-1.2(1)a and 66-152(3), all responsive public records have been provided.

18. The allegations contained in ¶ 18 of Plaintiff's Complaint are denied to the extent that all records requested were public records. It is affirmatively alleged that, except insofar as any documents may be excepted from Plaintiff's public records request as "trade secrets" within the

meaning of N.C. GEN. STAT. §§ 132-1.2(1)a and 66-152(3), all responsive public records have been provided, and that to date well over 2,000 pages of documents have been produced.

AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim for which relief can be granted and should therefore be dismissed pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure in that the Defendants, between March 2007 and the date of this Answer, and in accordance with Chapter 132 of the North Carolina General Statutes, have made available for inspection and furnished copies of every public record requested by Plaintiff, as referenced in Plaintiff's Complaint and the Exhibits thereto, with the exception of such documents that may be excepted from the public records requests as "trade secrets" within the meaning of N.C. GEN. STAT. §§ 132-1.2(1)a and 66-152(3).


PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully pray that the Court:

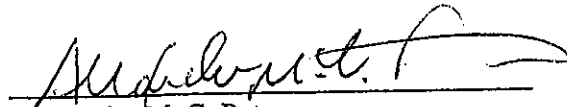
1. Dismiss this action;
2. Deny Plaintiff all relief sought by it; and
3. Award such other relief to Defendants as may be proper.

This the 13th day of March, 2008.

ROY COOPER
Attorney General



Melissa L. Trippe
Special Deputy Attorney General
N.C. State Bar No. 13937
mtrippe@ncdoj.gov



Alexander McC. Peters
Special Deputy Attorney General
N.C. State Bar No. 13654
apeters@ncdoj.gov


N.C. Department of Justice
P.O. Box 629
Raleigh, N.C. 27602
Telephone: 919-716-6900

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing ANSWER upon the following by depositing a copy of the same in the United States mail, first class postage prepaid:

Thomas A. Harris
General Counsel
STATE EMPLOYEES ASSOCIATION OF NORTH CAROLINA
P.O. Drawer 27727
Raleigh, North Carolina 27611

This the 13th day of March, 2008.


Melissa L. Trippe
Special Deputy Attorney General

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

2008 JUL 21 AM 9:39

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CVS 1597

STATE EMPLOYEES ASSOCIATION
OF NORTH CAROLINA, INC.,)
WAKE COUNTY, C.S.C.)

BY _____)
Plaintiff,)

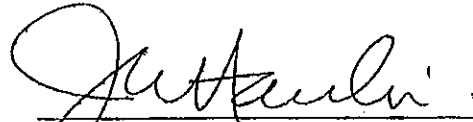
v.)

ORDER DISMISSING PLAINTIFF'S
COMPLAINT WITH PREJUDICE

NORTH CAROLINA DEPARTMENT)
OF STATE TREASURER, and)
RICHARD H. MOORE, in his capacity)
as Treasurer of the State of North)
Carolina)

This matter came before this Court on Defendants' Motion to Dismiss for failure to state a claim pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. The Court has considered the pleadings, the written and oral arguments of the parties, and the applicable law in this matter. Having reviewed and considered the same, IT IS NOW THEREFORE ORDERED, ADJUDGED AND DECREED that: Defendants' Motion to Dismiss is hereby GRANTED, and Plaintiff's Complaint in this matter is dismissed with prejudice.

This the 9th day of July, 2008.


The Honorable James E. Hardin, Jr.
Superior Court Judge Presiding

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE EMPLOYEES ASSOCIATION
OF NORTH CAROLINA, INC.

WAKE COUNTY, C.S.C. NO. 08 CVS 1597

Plaintiff, BY _____

v.

NOTICE OF APPEAL

NORTH CAROLINA DEPARTMENT OF
STATE TREASURER, and RICHARD H.
MOORE, in his capacity as Treasurer of
the State of North Carolina,

Defendants.

TO THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA:

Plaintiff State Employees Association of North Carolina, Inc. hereby gives notice of appeal to the Court of Appeals from the Order Dismissing Plaintiff's Complaint with Prejudice entered on July 21, 2008 in the Superior Court Division of Wake County.

Respectfully submitted this 7th day of August, 2008.

BLANCHARD, MILLER, LEWIS
& STYERS, P.A.

E. Hardy Lewis

E. Hardy Lewis
1117 Hillsborough Street
Raleigh, NC 27603
Telephone: 919.755.3993
Facsimile: 919.755.3994
Email address: hlewis@bmlslaw.com

Karen M. Kemerait

Karen M. Kemerait
1117 Hillsborough Street
Raleigh, NC 27603
Telephone: 919.755.3993

- 41 -

Facsimile: 919.755.3994

Email address: kkemerait@bmlslaw.com

Counsel for the Plaintiff

CERTIFICATE OF SERVICE

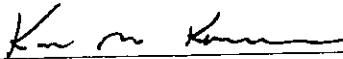
I certify that a copy of the foregoing **NOTICE OF APPEAL** was served on the counsel for the defendants in this case by placing the same into an official mail receptacle of the U.S.

Postal Service, postage prepaid and addressed as follows:

Thomas A. Harris, Esq.
State Employees Association of North Carolina, Inc.
PO Box Drawer 27727
Raleigh, North Carolina 27611

Keiran Shanahan, Esq.
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601

This 7th day of August, 2008.



Karen M. Kemerait

PLAINTIFF'S ASSIGNMENTS OF ERROR

Plaintiff respectfully makes the following assignments of error:

1. The court erred in granting defendants' motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6), on the ground that the Complaint states a claim upon which relief can be granted as it states a legally sufficient action for production of public records pursuant to the North Carolina Public Records Laws.

R. pp. 4-31, 39.

2. The court erred in granting defendants' motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6), on the ground that the pleadings show that plaintiff has made a legally sufficient claim for production of public records.

R. pp. 4-31, 39.

3. The court erred in dismissing plaintiff's Complaint with prejudice pursuant to Rule 12(b)(6).

R. pp. 4-31, 39.

IDENTIFICATION OF COUNSEL

The following are the names, office address, and telephone number for counsel for the plaintiff:

E. Hardy Lewis
Blanchard, Miller, Lewis & Styers, P.A.
1117 Hillsborough Street
Raleigh, North Carolina 27603
Telephone: 919.747-8107
Facsimile: 919.755.3994
Counsel for the Plaintiff

Karen M. Kemerait
Blanchard, Miller, Lewis & Styers, P.A.
1117 Hillsborough Street
Raleigh, North Carolina 27603
Telephone: 919.747-8102
Facsimile: 919.755.3994
Counsel for the Plaintiff

The following are the names, office address, and telephone number for counsel for defendants:

Kieran Shanahan, Esq.
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants

Steven K. McCallister
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants

Brandon S. Neuman
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants

CERTIFICATE OF SERVICE


I certify that I served the proposed Record on Appeal in this case upon the opposing party by depositing a copy of said document into the U.S. Mail, postage pre-paid to:

This 11th day of September, 2008.

Keiran Shanahan, Esq.
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants

Steven K. McCallister
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants

Brandon S. Neuman
Shanahan Law Group
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: 919-856-9494
Counsel for the Defendants



Karen M. Kemerait