EXHIBIT F.1

Arkansas
State Claims Commission

MAY 16 2017

Of the State of Arkansas

☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Ellis M Sloan, Claimant

vs.

State of Arkansas, Respondent

RECEIVED

Do Not Write in These Spaces

Claim No. 17-0726-CC

Date Filed May 18, 2017 (Month) (Day) (Year)

Amount of Claim $ 1,549,152.00

Fund APERS
OTher

COMPLAINT

Ellis M Sloan (Name), the above named Claimant, of 23 Harding Dr Searcy (Street or R.F.D. & No.) (City) Arkansas 72143 (State) (Zip Code) 501-920-2007 (Daytime Phone No.) County of White represented by Nate Steel (Legal Counsel, if any, for Claim)

of 400 W. Capitol Ave; STE 2910 (Street and No.) Little Rock (City) AR (State) 72201 (Zip Code) 501-251-1587 (Phone No.) 501-244-2614 (Fax No.) says:

State agency involved: Arkansas Public Employees Retirement System Amount sought: $1,549,152.00

Month, day, year and place of incident or service:

Explanation: See attached Complaint

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? See attached (Yes or No); when? See attached (Month) (Day) (Year); to whom? See attached (Department) See attached and that the following action was taken thereon: See attached

and that $ See attached was paid thereon: (2) Has any third person or corporation an interest in this claim? See attached; if so, state name and address See attached (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code) and that the nature thereof is as follows: See attached and was acquired on See attached, in the following manner: See attached

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Ellis M Sloan (Print Claimant/Representative Name)

Ellis M Sloan (Signature of Claimant/Representative)

STATE OF ARKANSAS
COUNTY OF WHITE

SWORN TO and subscribed before me at Searcy (City) AR (State)

on this 20th day of April, 2017

ZACHARY PAUL MUNCY
MY COMMISSION # 12357230
EXPIRES: November 3, 2026
White County

Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ELLIS SLOAN **CLAIMANT**

V. **CASE NO. _____**

THE STATE OF ARKANSAS
(ARKANSAS PUBLIC EMPLOYEES
RETIREMENT SYSTEM) **RESPONDENT**

COMPLAINT

Ellis Sloan ("Mr. Sloan" or "Claimant"), by and through his attorneys, Steel, Wright, Gray & Hutchinson PLLC, for his Claim, states as follows:

PARTIES

1. Mr. Sloan is an individual and resident of the State of Arkansas.

2. Respondent, the State of Arkansas is a sovereign state, and the Arkansas State Employees Retirement System ("APERS") is a state agency as defined by Ark. Code Ann. § 19-10-204.

3. All facts giving rise to this claim occurred within the State of Arkansas.

JURISDICTION AND VENUE

4. The Arkansas State Claims Commission (the "Commission") has jurisdiction over this matter, and venue is proper pursuant to Ark. Code Ann. § 19-10-204 et seq.

FACTUAL ALLEGATIONS

5. Mr. Sloan is a licensed financial planner and adviser who has worked with various capital management firms in the state of Arkansas.

6. In 1986, Mr. Sloan was employed as the Director of Research for T.J. Raney Investments. In that capacity, Mr. Sloan was tasked with researching public companies headquartered in Arkansas.

7. In 2002, Mr. Sloan created a fund made up of investments in various public companies based in Arkansas. The fund became known as the "Arkansas Index." That same year, the Arkansas Municipal League became the first investor in the Arkansas Index.

8. In 2005, Mr. Sloan began working as an investment manager with Lathrop Investment Management Corporation ("Lathrop") based in Little Rock, Arkansas. In February of that year, APERS invited Mr. Sloan to present the Arkansas Index as an investment opportunity at its next meeting.

9. At the meeting held in May of 2006, Mr. Sloan presented the Arkansas Index to APERS as an investment opportunity. APERS agreed to place an investment in the Arkansas Index under Mr. Sloan's management.

10. Shortly following APERS' investment, in 2006, Mr. Sloan informed APERS Director Gail Stone that he would be leaving Lathrop.

11. Director Stone advised that APERS' standard practice was to remain with the individual investment manager so long as the firm he or she is affiliated with maintains proper accreditation for institutional investing.

12. Director Stone further assured Mr. Sloan that, upon determining that a proposed firm was qualified, she would recommend to the APERS board that the Arkansas Index remain under Mr. Sloan's management at the new firm.

13. In reliance on Director Stone's statements, Mr. Sloan left Lathrop to join Horrell Capital Management, Inc. ("Horrell") in Little Rock, Arkansas in or about July of 2006.

14. As promised, APERS maintained its investment with Mr. Sloan and the Arkansas Index at Horrell Capital Management.

15. At all times pertaining hereto, including without limitation the entirety of Mr. Sloan's time at Horrell, Mr. Sloan was the exclusive manager of the Arkansas Index.

16. Indeed, since APERS first contracted with Horrell, Mr. Sloan has been identified as the Contractor and Portfolio Manager. **Exhibit 1** at p. 3.

17. In its most recent contract, Mr. Sloan was identified as both the Vendor and the Portfolio Manager. **Exhibit 2** at p. 3.

18. Mr. Sloan was, and remains, uniquely qualified to manage the Arkansas Index, to wit:

a. Mr. Sloan created the fund.

b. In researching and developing the Arkansas Index, Mr. Sloan personally met with executives at the highest levels of management at Arkansas publicly traded companies, and wrote extensive research reports on these investments, beginning in 1986 and maintaining such contacts until the facts giving rise to this claim.

c. Mr. Sloan has 34 years of investment experience.

d. Mr. Sloan holds the highest professional credential for a portfolio manager as a Chartered Financial Analyst ("CFA").

e. Mr. Sloan holds an inactive license as a Certified Public Accountant.

f. Mr. Sloan has been an assistant professor of Finance and Investments at Harding University for twelve years.

19. At all times pertinent hereto, no other manager at Horrell, including Scott Horrell, had any day-to-day management of the Arkansas Index fund.

20. In fact, the only user with access to the Arkansas Index was Mr. Sloan, as evidenced by the username of "mhrl.esloan."

21. In or about early 2015, Mr. Sloan became concerned that basic practices were not being followed by Horrell Capital Management, and specifically Scott Horrell.

22. Namely, Mr. Scott Horrell had no knowledge of where the assets were held, how to access the assets, how to set up required worksheets to rebalance the portfolio, or how to write required monthly or quarterly reports.

23. Further, Mr. Horrell refused to utilize outside counsel for compliance with complex federal securities regulation, and the firm showed signs of financial stress including but not limited to service interruptions of utilities.

24. These concerns placed Mr. Sloan in a difficult position. As a fiduciary, Mr. Sloan was impelled to move his clients, including APERS, to another firm.

25. In or about April 2015, Mr. Sloan approached APERS Director Gail Stone and discussed the possibility of leaving Horrell for another firm. Mr. Sloan asked for assurances that APERS' investment, the Arkansas Index, would remain under his management in the event he left Horrell.

26. APERS Director Stone promised and represented to Mr. Sloan that the process for that determination would be the same as it was in 2006 when Mr. Sloan left Lathrop, and would yield the same result. Specifically, Director Stone assured Mr. Sloan that the APERS Arkansas Index fund would remain under his management at a new firm, so long as the new firm was properly accredited.

27. Mr. Sloan proposed the firm of Kernodle and Katon Asset Management Corporation ("Kernodle & Katon") by name, and was assured by APERS Director Stone that the firm would qualify.

28. Director Stone had both actual and apparent authority to make promises on behalf of APERS.

29. Reasonably relying on Director Stone's promises and representations, on May 15, 2015, Mr. Sloan left Horrell for Kernodle & Katon.

30. After Mr. Sloan's departure, APERS failed to fulfill its promises and representations to Mr. Sloan, and, instead, contracted with Horrell and a firm known as The Circumference Group.

31. The facts giving rise to this claim were presented to APERS at its regular meeting of its Board of Directors held on August 19, 2015, and again at the APERS board meeting held on November 18, 2016. No action was taken and no payment of any kind has been made to Claimant.

32. No person or corporation has any absolute or contingent interest in this claim.

COUNT I – PROMISSORY ESTOPPEL

33. Plaintiff incorporates by reference all allegations in paragraphs 1–32 above as if repeated herein word for word.

34. Plaintiff specifically received assurances from APERS that he would remain the manager of its Arkansas Index fund if he left Horrell for another firm.

35. Plaintiff identified said firm by name as Kernodle & Katon.

36. Plaintiff was given a promise from APERS, by way of its Director that the fund would indeed follow Plaintiff to the firm Kernodle & Katon.

37. Further, Director Stone promised and assured Plaintiff that APERS would follow the same process that it did ten years prior, when Plaintiff left Lathrop for Horrell, and keep Plaintiff as the manager of its Arkansas Index Fund—that Plaintiff created.

38. Plaintiff reasonably relied to his detriment on these statements, promises, and assurances made by Director Stone.

39. Plaintiff's actions, namely leaving Horrell for Kernodle & Katon, were reasonable, and APERS reasonably foresaw them.

40. Plaintiff's actions constitute clear and convincing evidence of the promise made by APERS.

41. As a direct and proximate result of APERS refusal to follow through with its statements and promises, Plaintiff has incurred damages.

COUNT II – CONSTRUCTIVE FRAUD

42. Plaintiff incorporates by reference all allegations in paragraphs 1–41 above as if restated herein word for word.

43. Director Stone made false representations of material facts.

44. Director Stone knew or should have known that her statements were false or that she lacked a sufficient basis of information to make the representations.

45. The assurances requested by Plaintiff, and the representation made by APERS, were intended to induce Plaintiff into acting in reliance on them.

46. Plaintiff was justified in relying on Director Stone's representations.

47. As a result, Plaintiff was damaged.

WHEREFORE, Ellis Sloan prays that this Commission award him damages in the amount of $1,549,152.00.

STEEL, WRIGHT, GRAY
& HUTCHINSON PLLC
400 West Capitol Ave., Ste 2910
Little Rock, AR 72201
(501) 251-1587

Nate Steel, Ark Bar No. 2007186
Alex T. Gray, Ark. Bar No. 2008127

Attorneys for Ellis Sloan

VERIFICATION

I, Ellis Sloan, hereby verify the allegations contained herein are true and accurate to the best of my knowledge.

Ellis Sloan

COPY

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ELLIS SLOAN

CLAIMANT

V.

CLAIM NO. 17-0726-CC

ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion filed by respondent Arkansas Public Employees' Retirement System ("APERS") to dismiss the claim of claimant Ellis Sloan (the "Claimant") based upon the Claims Commission's lack of jurisdiction over this claim. At the hearing held on October 12, 2017, Claimant was represented by Nate Steel. Frank J. Wills, III appeared on behalf of APERS. Based upon APERS' motion, Claimant's response, and APERS' reply brief, as well as arguments of counsel, and the law of Arkansas, the Claims Commission hereby unanimously finds as follows:

1. On May 18, 2017, Claimant filed the instant claim against Respondent, seeking $1,549,152.00 in damages. Claimant listed two counts in his claim against Respondent: promissory estoppel and constructive fraud. Claimant's claim is based upon representations allegedly made by APERS' executive director that Claimant could continue to manage an APERS investment if he left his investment firm.

2. APERS moved to dismiss for lack of jurisdiction pursuant to Ark. Code Ann. § 19-10-204(b)(1)(A)(i)(d), which states that, "[t]he commission shall have no jurisdiction of, or authority with respect to, claims arising under . . . [t]he Arkansas Public Employees' Retirement System Act, Acts 1957, No. 177." APERS also argued that pursuant to Ark. Code Ann. § 24-4-105(a)(4), only APERS' Board of Trustees has the authority to direct its investments, not the executive director.

IT IS SO ORDERED.

ARKANSAS STATE CLAIMS COMMISSION
Dexter Booth

ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

ARKANSAS STATE CLAIMS COMMISSION
Mica Strother, Co-Chair

DATE: October 20, 2017

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ELLIS SLOAN **CLAIMANT**

V. **CLAIM NO. 17-0726-CC**

ARKANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM **RESPONDENT**

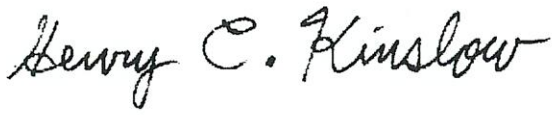
ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion filed by claimant Ellis Sloan (the "Claimant") for reconsideration of the Claims Commission's October 20, 2017, order dismissing Claimant's claim against the Arkansas Public Employees Retirement System (the "Respondent"). Based upon a review of Claimant's motion, Respondent's response, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant's motion for reconsideration focuses on whether Claimant has alternative remedies other than the Claims Commission, such as through a lawsuit in circuit court or an administrative appeal. Claimant argues that a claim pursued through the Claims Commission is the only option available to him and that the Claims Commission's dismissal of this claim was premature.

2. In its response, Respondent argues that postponing a jurisdictional finding until after a hearing on the merits would be pointless if the Claims Commission does not have jurisdiction over Claimant's claim. Respondent also argues that Claimant has failed to meet the burden set forth in Claims Commission Rule 7.1 because its motion for reconsideration challenges the Claims Commission's conclusion of law regarding jurisdiction but fails to identify any new or additional evidence.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth
Henry Kinslow, Co-Chair
Bill Lancaster
Sylvester Smith
Mica Strother, Co-Chair

DATE: December 8, 2017

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

Arkansas
State Claims Commission
DEC 23 2017
RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ELLIS SLOAN **CLAIMANT**

V. **CASE NO. 17-0726-CC**

THE STATE OF ARKANSAS
(ARKANSAS PUBLIC EMPLOYEES
RETIREMENT SYSTEM) **RESPONDENT**

NOTICE OF APPEAL

Ellis Sloan ("Mr. Sloan" or "Claimant"), by and through his attorneys, Steel, Wright, Gray & Hutchinson PLLC, for his Response to Motion to Dismiss ("Motion"), states as follows:

1. On October 12, 2017, Claimant appeared through counsel at a hearing on Respondent's Motion to Dismiss.

2. On October 20, 2017, the Arkansas State Claims Commission (the "Commission") entered an Order dismissing Claimant's claims.

3. Claimant was served notice of the Order on November 6, 2017.

4. Claimant filed a Motion for Reconsideration on November 14, 2017.

5. Claimant's Motion for Reconsideration was denied on December 8, 2017.

6. Pursuant to Ark. Code Ann. § 19-10-211, Claimant hereby appeals the decision made by the Commission to the Arkansas General Assembly.

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

June 28, 2018

The Honorable Leslie Rutledge
Arkansas Attorney General
323 Center Street
Suite 200
Little Rock, Arkansas 72201

RE: **Request for opinion**

Dear Madam Attorney General,

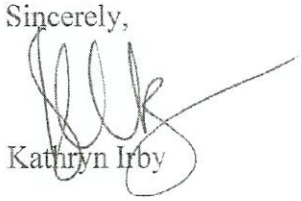
On May 18, 2017, the claim of *Ellis Sloan v. Arkansas Public Employees Retirement System*, Claim No. 17-0726-CC was filed with the Arkansas State Claims Commission (the "Claims Commission"). Claimant Ellis Sloan (the "Claimant") asserted that he was damaged when Arkansas Public Employees Retirement System (APERS) contracted with another party to manage an APERS investment.

In response to the claim, APERS filed a motion to dismiss based on a lack of jurisdiction. The Claims Commission held a hearing on the motion to dismiss on October 12, 2017, and thereafter entered an order dismissing the claim for lack of jurisdiction pursuant to Ark. Code Ann. § 19-10-204(b)(1)(A)(i)(d). Claimant filed a motion for reconsideration, which was denied by the Claims Commission on December 8, 2017. Claimant then filed a notice of appeal.

On June 11, 2018, the Claims Review Subcommittee of the Arkansas Legislative Council considered Claimant's appeal. The Subcommittee heard argument from the parties and ultimately remanded the claim back to the Claims Commission with instructions to seek an opinion from the Arkansas Attorney General regarding the question of jurisdiction.

As such, the Claims Commission requests an opinion as to whether it has jurisdiction to consider a claim against Arkansas Public Employees Retirement System regarding the authority to direct investments.

Sincerely,



Kathryn Irby

cc: Mr. Nate Steel, *counsel for Claimant* (via email only)
Mr. Frank J. Wills, III, *counsel for Respondent* (via email only)
Mr. Brent Gasper, Bureau of Legislative Research (via email only)
Ms. Heather Browning, Bureau of Legislative Research (via email only)

ATTORNEY GENERAL
LESLIE RUTLEDGE
ARKANSASAG.GOV

Arkansas
State Claims Commission
JUL 03 2018
RECEIVED

June 29, 2018

Kathryn Irby, Director
Arkansas State Claims Commission
101 E. Capitol Ave., Suite 410
Little Rock, AR 72201-3823

Re: Your request for an opinion

Dear Ms. Irby:

The purpose of this letter is to acknowledge receipt of your request for an official Attorney General opinion. Your request has been logged in and assigned to an attorney for preparation. Opinions are issued, with limited exceptions, in the order of receipt. Your request will be addressed in as timely a manner as possible.

There are several subjects on which we cannot issue opinions. Here is a partial list. This office will not issue opinions when the subject matter: (1) is in litigation before a court or administrative body; (2) is a purely private legal matter; or (3) relates to a private pecuniary or business interest of the requester in a manner distinguishable from the public at large or particular class of persons affected. If at any time before publication of this opinion, it comes to your attention that litigation has been filed on the subject matter of your request, or if you become aware of any other reason we cannot issue an opinion consistently with our policies, please advise my office at your earliest convenience.

Please be advised that opinions are generally posted on our website (www.arkansasag.gov) on the date of publication. You will receive my response to your request by regular mail. If you would like to receive an electronic or fax transmission of your opinion on the date of publication, please forward the appropriate contact information to the Opinions Department at 501-682-5086, 501-682-8162 (fax), or cheryl.hall@arkansasag.gov.

Arkansas
State Claims Commission
JUL 26 2018
RECEIVED

STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2018-082

July 24, 2018

Kathryn Irby, Director
Arkansas State Claims Commission
101 E. Capitol Avenue, Suite 410
Little Rock, AR 72201-3823

Dear Ms. Irby:

I am writing in response to your request for an opinion at the direction of the Claims Review Subcommittee of the Arkansas Legislative Council ("Subcommittee"). As background for your request, you report that the Arkansas State Claims Commission ("Claims Commission") dismissed a particular claim for lack of jurisdiction and that the claimant filed a notice of appeal.[1] You further report that the Subcommittee heard argument from the parties to the appeal and remanded the claim to the Claims Commission with instructions to seek an Attorney General's opinion on a question of jurisdiction. In compliance with the Subcommittee's instructions, the Claims Commission asks for my opinion on the following question, which I have paraphrased slightly:

> Does the Claims Commission have jurisdiction to consider a claim against the Arkansas Public Employees Retirement System regarding the authority to direct investments?

RESPONSE

Arkansas law expressly provides that decisions of the Arkansas State Claims Commission may be appealed only to the Arkansas General Assembly.[2]

---

[1] The General Assembly hears appeals of Claims Commission decisions. Ark. Code Ann. § 19-10-211(a) (Repl. 2016).

[2] *Id.* ("A decision of the Arkansas State Claims Commission may be appealed only to the General Assembly."). *See also Hanley v. Arkansas State Claims Commission*, 333 Ark. 159, 970

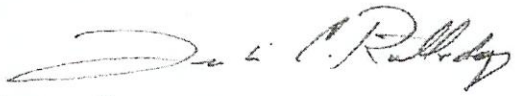
323 Center Street, Suite 200 · Little Rock, Arkansas 72201
Telephone (501) 682-2007 · Fax (501) 682-8084
ARKANSASAG.GOV

Consequently, I am unable to render an opinion pertaining to the claim at hand, which is currently pending on appeal to the General Assembly. Although my office, of course, stands ready to provide requested legal assistance to state officers in the performance of their duties, the issue before the General Assembly is a matter that falls solely within the province of that body and its appropriate committees.

Indeed, the long-standing policy of the Attorney General's office to decline to issue formal opinions on matters that are pending in litigation or in administrative proceedings dictates that I decline to address your question. This policy equally applies to matters before the Claims Commission that are pending ultimate resolution by the General Assembly.[3]

I regret that I could not be of assistance in this matter. Please feel free to contact me if I can help you in some other respect.

Sincerely,



LESLIE RUTLEDGE
Attorney General

S.W.2d 198 (1998), citing *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771 (1990) (stating that "[T]he Claims Commission is an arm of the General Assembly and *the General Assembly has total control over the determination of, and subsequent funding for,* payment of the 'just debts and obligations of the state'....") (Emphasis added).

[3] *See* Ops. Att'y Gen. 2004-207 (and opinions cited therein), 2002-189.