

BOARD OF CLAIMS
Minutes for the March 23, 2016 Meeting of the Board

Members Present:

Steve Curry, designee for David H. Lillard, Jr., State Treasurer, Chair
Abby Sutton, designee for Tre Hargett, Secretary of State
Terry Mason, designee for Justin Wilson, Comptroller
Martha Nichols, designee for Larry Martin, Commissioner of Finance and Administration

Treasury Staff:

Rodney Escobar, Director of Risk Management and Claims Administration, Treasury Department
Alison Cleaves, Assistant General Counsel, Treasury Department
Amy Dunlap, Assistant Director, Risk Management and Claims Administration, Treasury Department
Larissa Dills, Division of Risk Management and Claims

Call Meeting to Order

With a quorum present, Steve Curry, First Deputy Treasurer called the meeting to order at 9:33 a.m.

Review of Minutes of December 7, 2015 Meeting

The first item of business was review of the minutes for the Board of Claims meeting on December 7, 2015. A motion to approve was made by Martha Nichols, designee for Larry Martin, Commissioner of Finance and Administration. The motion was seconded by Terry Mason, designee for Comptroller Justin Wilson. The motion passed unanimously approving the minutes.

Purchase of Errors and Omission Insurance for University of Memphis

The University of Memphis requested permission to allow The Benjamin L. Hooks Institute for Social Change to purchase E&O insurance coverage for a film documentary, titled "Duty of the Hour," that examines the life of civil rights activist Dr. Benjamin L. Hooks. The University of Memphis indicated the film falls under the Fair use Doctrine that allows the limited use on the exclusive rights held by copyrighted holders. Under certain conditions the Fair Use Doctrine allows a documentary film maker limited use of copyrighted content without the permission of the holder of the copyrighted material. The requested E&O insurance from the UOM will cover any losses that may arise from the making and broadcasting of the documentary film, such as copy right infringement, libel, slander, defamation, plagiarism, using someone's image without permission, to name few.

The University of Memphis has provided three quotes from:

- CRC Insurance Company; Premium = \$4,217; E&O 1M per occur/1M Aggregate.

- HISCOX Insurance Company; Premium = \$5,596 for 3 years; E&O 1M per occur/3M Aggregate.
- OneBeacon Professional Insurance; Premium = \$2,500; E&O 2M per occur/2M Aggregate.

The University of Memphis has requested to the BOC to obtain E&O coverage from CRC Insurance Company, located in Birmingham, AL. According to the university, CRC Insurance has broader coverage to protect against claims that fall under the Fair Use Doctrine, and has included a Fair Use Endorsement in the quoted policy. The other two companies would not offer this type of endorsement. The E&O coverage would also name as an additional insured Daphene R. McFerren (director of the Hooks Institute), Reece Auguiste, a former visiting professor, and Tony Dancy, and independent contractor. Staff provided the Board the recommendation of approving the purchase of additional insurance by the University, conditioned on the University's compliance with the following conditions:

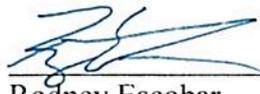
1. The University may purchase a policy for E&O Insurance that covers the Fair Use Doctrine, and any errors or omissions committed by the University, Institution, Daphene R. McFerren, Reece Auguiste, and Tony Dancy who were named as an additional insured in the policy. The coverage shall be in the amounts of one million dollars (\$1,000,000) per occurrence, along with a one million dollars (\$1,000,000) aggregate per policy year. The policy shall be secured by the University from CRC Insurance Company in exchange for the premium of four thousand two hundred seventeen dollars (\$4,217) for a one (1) - year term.
2. The purchase of this insurance policy shall not be construed as a waiver of or limitation of the State's sovereign immunity, defenses, rights or actions arising out of its status as a sovereign State or entity, including, but not limited to, those under the Eleventh Amendment of the United States Constitution.
3. The purchase of this insurance policy shall not be construed as a waiver of or limitation of any State officer's or State employee's immunities or defenses from liability pursuant to applicable law.
4. The purchase of this insurance policy shall not be construed as a waiver or limitation of the Claims Commission's jurisdiction to hear claims against the State, State officers and State employees, or the monetary amount recoverable against the State pursuant to Tenn. Code Ann. §9-8-307.
5. The Attorney General's Office will assert the Tennessee Code Ann. §9-8-307 defenses on behalf of the individual state employees and state officers, and the sovereign immunity defense on behalf of the State if sued.

6. If there are changes made to the policy after the Board's approval of same, then such changes shall be subject to the approval of the Board.

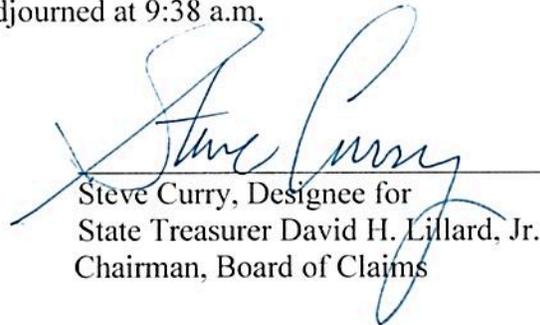
A motion to approve was made by Martha Nichols, designee for Larry Martin, Commissioner of Finance and Administration. The motion was seconded by Abby Sutton, designee for Secretary of State Tre Hargett. The motion passed unanimously approving the purchase of insurance.

Adjournment

There being no further business, the meeting was adjourned at 9:38 a.m.



Rodney Escobar
Director of Risk Management and Claims
Executive Secretary to the Board of Claims



Steve Curry, Designee for
State Treasurer David H. Lillard, Jr.
Chairman, Board of Claims