

**401 F Street  
Douglas, Alaska 99824**

October 22, 2016

Representative Mike Hawker, Chair  
Legislative Budget and Audit Committee  
716 W 4th Ave #610  
Anchorage, AK 99501

Dear Representative Hawker:

We urge the Legislative Budget and Audit Committee to direct the Division of Legislative Audit to conduct a special audit of the Alaska Mental Health Trust Authority (Trust) board of trustees and its circumvention of AS 37.14.033 which provides that “the mental health trust fund shall be managed by the Alaska Permanent Fund Corporation”. Specific authority for such an audit is found at AS 24.20.271(3) which authorizes the division, “at the direction of the Legislative Budget and Audit Committee, [to] conduct performance post-audits on any agency of state government.”

Our interest in writing you stems from our leading roles in creating the Trust in 1994. Both of us were extensively involved in the negotiations with the parties and the legislature during both regular and special sessions convened to bring the then-longstanding litigation to a successful conclusion. Harry served as commissioner of natural resources and Bruce as attorney general at the time. Between 2007 and 2010 Harry served as the Executive Director of the Trust Land Office (TLO).

There are three concerns that cause us to make this extraordinary request:

1. Use of principal funds.

The Mental Health Trust settlement legislation specifically required the cash assets of the trust, including principal derived from revenues generated by the Trust land base, be managed by contracting with the Alaska Permanent Fund Corporation (APFC). This provision was specifically placed in the legislation to guard how the funds were to be managed.

In the last two years the Trust board has taken \$ 32.5 million of principal funds and diverted that money away from the APFC and instead purchased real estate mainly outside of Alaska. Further, the board has encumbered the Trust with \$35 million dollars of debt by mortgaging many of those properties. . The Trust is investing in commercial real estate parallel to the APFC and is simply duplicating what the APFC is doing without the same level of expertise.

To our knowledge the Trust board has not provided for any external or internal audit of these purchases and it is extremely hard, from the public record, to determine the actual income and risk associated with these purchases

2. Mine Exploration.

The TLO is apparently in the process of requesting that the board of trustees invest principal funds in an advanced mine exploration program at Icy Cape with little or no understanding of what is involved in development of a mine. Again, if these principal funds are spent on such a high risk program there is a high likelihood that the money will never be recovered and the Trust will lose the long term revenue that could be derived from those funds. The amount that is being discussed is \$2.0 million.

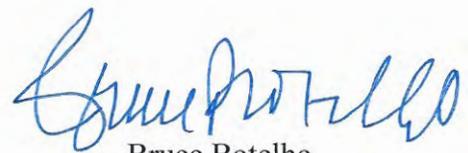
3. Arm's Length Transactions.

Because of the unusual nature of the real estate transactions and little transparency in what has taken place, it is difficult to determine whether each of the purchases have been arm's length in nature.

These actions highlight the fact that significant monetary resources are tied up in state-created corporations and those corporations each have boards that decide how large sums of money can be spent, without effective oversight by the legislature. This means that at times, using the Mental Health Trust Authority board as an example, four board members can decide how significant public funds are spent without independent review.

If, after the audit is completed, the conclusion is that the board should be free to make its own investment decisions—a dubious proposition in our view—then the authorizing legislation should be amended accordingly. For our part, we believe that the statutory framework that relies on the investment expertise of the Permanent Fund Corporation is in the state's and the beneficiaries' best interest.

Harry Noah



Bruce Botelho

copies to:

Jim Whitaker, Chief of Staff  
Alaska Office of the Governor

Andy Mack, Commissioner  
Alaska Department of Natural Resources

Russ Webb, Chair, Board of Trustees  
Alaska Mental Health Trust Authority

Jeff Jessee, Chief Executive Officer  
Alaska Mental Health Trust Authority