

Divest NY Correspondence With NYSTRS | July 27, 2023 – October 11, 2023

From: Sally Courtright <scourtri@gmail.com>

Date: Mon, Oct 2, 2023 at 9:08 AM

Subject: Response to August 30th email

To: David P. Keefe <dpkeefe@live.com>, Dr. L. Oliver Robinson <robioliv@shenschools.org>, Elizabeth A. Chetney <bchetney@nysutmail.org>, Dr. Phyllis S. Harrington <pharrington@oceansideschools.org>, Eric J. Iberger <eiberger@bbpschools.org>, Jennifer J. Longtin <jen@lighthouseinsagency.com>, “Ruth H. Mahoney” <Rmahoney806@gmail.com>, Nicholas Smirensky <nicksmirensky@gmail.com>, Thomas K. Lee <thomas.lee@nystrs.org>, <benaquisto@schenectady.k12.ny.us>

Dear Dave,

Thanks for your response on August 30 to my follow-up message on July 30, in which I mentioned NYSTRS’ losses on Russian assets.

I have shared your 8/30 email with the Divest NY working group, as well as your July 28 response to the original letter I had written to the NYSTRS Board on July 27 about the need for divestment.

Our response to you as President of the NYSTRS Board will be sent by Bernard Tuchman (bdtjpw@gmail.com).

Best,
Sally

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Dear Mr. Keefe,

**You wrote in your August 30, 2023 reply to Sally Courtright about what happened to NYSTRS’ investments in Russian securities following the invasion of Ukraine.** Those investments were made in accordance with a “passive” investment strategy that seeks to mirror the performance of a benchmark index which included Russian assets.

It’s important that NYSTRS recognize that this was a mistake that led to a real loss.

**The causes of that loss must be analyzed so that lessons can be learned.** However, your reply did not address what went wrong in NYSTRS’ risk management process.

Geopolitical Risk is identified in NYSTRS' *Investment Policy Manual* as something to watch out for — and, presumably, to act on. But no warning signals of an imminent Russian invasion of Ukraine were noted by NYSTRS, even as alarm bells sounded across the world. And then it was too late to prevent the “small” loss of about \$125 million, as reported in a March 4, 2022 article in *Pensions & Investments*:

<https://www.pionline.com/pension-funds/new-york-state-teachers-oregon-join-dropping-russian-investments>

archive: <https://archive.ph/JohPR>

### **NYSTRS' passivity on known Geopolitical Risk bodes ill for action on Climate Risk.**

The System's stake as an owner of fossil fuel assets is over \$3 billion. But the issue for NYSTRS' core mission goes much deeper.

We have already breached a 1.5°C temperature increase. We are now in the zone of climate disruption where what is chaotically destroyed is beginning to create uninsurable damage, which cripples any rational investment plans.

The value of NYSTRS' entire portfolio is at stake, as well as the lives of its beneficiaries, in the world that is our only home.

Decades of attempts by shareholders to get fossil fuel companies to act to avert climate destabilization have accomplished nothing. There is no fossil fuel company that has even offered a plan to exit the industry by 2050, despite the International Energy Agency's finding that all future fossil fuel projects must be scrapped if the world is to reach net-zero carbon emissions by 2050. (<https://www.iea.org/reports/net-zero-by-2050>)

### **What will be NYSTRS' exit ramp from fossil fuels, and will it be fast enough to make a difference?**

NYSTRS' January 2023 *Stewardship Update: Climate Change Action Through Responsible Stewardship* says all the right words, but its practice rings hollow.

NYSTRS accepts that divestment is sometimes justified and has committed to divest when it is warranted. But it continues to invest in one of the dirtiest fossil fuels, oil sands, showing that its analysis is faulty to an extreme.

**When will NYSTRS acknowledge the obligations that come with its role as a large “universal owner”?**

NYSTRS’ assessment of risk sends a market signal, which is how “the wisdom of the market” gets formed. Its actions, or inaction, are noted across the whole financial community. Its institutional prestige can help or hinder the shift of funds out of fossil fuels and into clean sustainable alternatives.

**“Free Rider” fatalism is not a fiduciary investment strategy. NYSTRS’ present path leads to predictable losses due to self-chosen passivity.**

Continuing to hold fossil fuel assets is a vote of confidence in companies whose business plan is to delay the energy transition we need.

These companies will not be able to save themselves. The market will inevitably erode their value over upcoming decades. But they may succeed in this coming crucial decade in retarding our last chance to avert climate devastation, **imperiling NYSTRS’ whole portfolio.**

Dilatory action guarantees loss. It is fiduciary irresponsibility when the courage to lead is required.

**We must act on climate for the future of our students.**

The health and safety of NYSTRS beneficiaries are directly at risk due to climate change.

Most of NYSTRS’ beneficiaries are members of NYSUT. NYSUT has launched a campaign in support of S.3397 (Skoufis)/A.447 (Joyner). The bill requires that all school facilities establish a maximum temperature to ensure that students, faculty, and staff are not forced to endure extreme heat conditions in schools.

This bill addresses heat risk as an **emergency**.

It’s your job to address **the cause of a crisis** that jeopardizes those whom it is your mission to protect.

**The future will not take care of itself. The climate can’t wait.**

Respectfully,

Bernard Tuchman Divest NY

Sally Courtright NYSTRS Divest NY

Mary Finneran NYSTRS Divest NY

Lauren Kirkwood NYSTRS Divest NY

Kay Lustig NYSTRS Divest NY

Bill Ritchie NYSTRS Divest NY

Diane Torstrup NYSTRS Divest NY

Jim Weiss NYSTRS Divest NY

## KEEFE - COURTRIGHT CORRESPONDENCE

From David Keefe Aug 30, 2023

Hello Sally. I spoke to the System last week about your query. Here, in some sort of non-financial jargon is an update.

We have no holdings in Russia directly. They are in a weighted index of international holdings which are traded through a passively managed account. As you may know, a passively managed account mimics the index. On or about March 9, 2022 following Russia's invasion, all Russian holdings were removed from the benchmark. Our Russian holdings were, in effect, frozen. At the same time the United States State Department's Office of Foreign Assets issued a directive that prohibits purchases of Russian securities.

On March 9, 2022, the Russian assets held by us was below 0.2% of our assets. These assets are frozen by Office of Foreign Assets Executive Order 14024. This may well be source of the number you were quoted, although, once the assets were removed from the index, it is really a "fool's errand" to quantify the value of the assets as they cannot be traded in the US, not to mention many other world markets. Nor could we sell them to another market under US law.

In theory, once the order from the US State Department is lifted, the Russian equities could be again listed on the international index. But, of course, this would be dependent on the results of the invasion and steps world markets may take as a result. Once returned to the index our Russian holdings would be unfrozen and, again, in theory, would have a value. A ball park figure for the potential value of these assets varies from \$20 million to \$150 million. It would depend on how the world markets would react to Russian holdings again being offered for trade.

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From Sally Courtright July 28, 2023

Dave,

I appreciate your taking the time to respond to my message.

I never expected to win the election. I ran to elevate the concept of divestment. I actually was overwhelmed by the number of votes I got.

The returns for renewable energy are robust and those of fossil fuels are losing ground. As time goes on fossil fuels will lose more as the transition to renewable energy accelerates. These dirty fuels will become far more volatile. Rumor has it that when the war in Ukraine commenced NYSTRS lost \$90 million dollars on Russian oil and gas. I consider my source a good one but I chose not to raise this issue during the campaign. Is it true?

For me the climate events of this summer verify the need to do everything we can to mitigate climate change. A vital aspect of that action is the divestment of fossil fuels. The Church of England is the most recent entity to divest.

Divestment of fossil fuels has a two pronged advantage. It benefits the environment and it benefits the financial health of the fund. A recent study indicated that if a fund had divested ten years ago it would be worth considerably more today. I urge NYSTRS to divest!

Take good care, Sally

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On Fri, Jul 28, 2023 at 3:50 PM david keefe <dpkeefe@live.com> wrote:

Hello Sally. Hope all is well. I am sure that there were several reasons for the number of votes that both you and I received. As a one-issue candidate, by your own admission, it seems one possibility in the voters' minds could be agreement with your one issue. However as I have been traveling the state for the 19 years I have been in this seat, there are many topics addressed to me which fellow retirees are interested in my views. Yes, there have been inquiries about fossil fuels and NYSTRS' position on this issue. But this topic rarely comes up, and when it does I address it as best I can. To date, no one, after hearing my response has rebutted it.

Do I believe that the fossil fuel issue motivated some retirees to vote in a certain manner? Yes. But to assume that this one issue was the only issue on voters' minds is a leap. However, I realize that it is your overriding issue and I can see why you might draw the conclusion.

I have discussed November's election with some retirees who did not vote for me. None of them gave this one issue as the reason for voting against me. Admittedly this was a small sample of the votes you received, but as in any election there are always myriad reasons why people vote the way they do.

I hope you are doing well and please enjoy the remaining days of summer. Dave

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Letter to the NYS Teacher's Retirement System Board by Sally Courtright
July 27, 2023

It was an honor to run for the NYSTRS retired member board seat this past Fall. This pension fund has served our New York State teachers for over one hundred years. Teachers devote themselves to enriching the lives of our precious children.

I contacted several retired teachers at the start of my campaign. In response, one individual claimed that I was a one issue candidate. She was exactly right! I think that this robust fund is wonderful except for its decision to continue to invest in fossil fuels.

The extraction, transport and combustion of these fuels creates a plethora of pollution. This toxic pollution adversely affects human health and dramatically disrupts our once stable climate. These horrific problems will grow much worse if we fail to curtail our use of these dirty products.

The over four billion dollars of fossil fuel money that is invested in the NYSTRS fund helps finance new development by these companies. It helps make capital available for new projects including pipelines and compressor stations.

Divestment of billions of dollars in fossil fuels is a vital aspect of climate mitigation. It is a smart and simple process. We must all do what we can to ensure a safer, cleaner and more secure future for our children, grandchildren and students.

As I conclude I am reading the cover of an issue of 'NYSUT UNITED' which asks what are we for? The given answers include safe schools, strong communities and professional respect. These are excellent goals, but the results of the NYSTRS election suggest that folks would also like to see divestment of their pension fund. As an unknown I ran for this seat as I called for divestment and collected nearly 40% of the vote. Teachers are smart and informed. They want a clean pension fund.

Thomas Lee Response to DivestNY | October 11, 2023

From: Thomas Lee thomas.lee@nystrs.org **Subject:** RE: Response to August 30th email

Date: October 11, 2023 at 6:17 AM
To: Bernard Tuchman bdtjpw@gmail.com

Cc: David Keefe (dpkeefe@live.com) dpkeefe@live.com

Bernard,

Our response to your October 2, 2023 email to David Keefe is below:

Dear DivestNY,

Thank you for raising your concerns with us. NYSTRS has been successful in providing retirement security for our members for over one hundred years through an investment program designed to maintain the sustainability of retirement benefits members have earned. The System has accomplished this as universal owners – owning assets across the U.S. and global economy. One key factor in our success has been that of investment diversification through passive management. With regards to geo-political risk, we state in our Investment Policy Manual that the System is exposed to the risk of nationalization or other unfavorable government action in the foreign countries in which it invests. This risk is mitigated to the extent possible by maintaining a well-diversified country exposure.

With regards to addressing climate risk, the System has to address this within the bounds of our fiduciary duty to our members. Although our public equities investment strategy is passive, we engage with companies as active owners through individual and collective engagement, as well as through our proxy votes. By contrast, if we were to divest, we would cede those opportunities and the likelihood is that we would be selling to institutions that might not share our perspective in climate risk. Nor would it have any impact in the companies' ability to deploy capital.

Please be assured NYSTRS will continue to safeguard its assets on behalf of our members and beneficiaries. The Board is committed to responsible stewardship and its Investment Beliefs, which in part outlines their Duty of Loyalty to act for the exclusive benefit of our members.