

LITIGATION INVESTING - PALM BEACH CAPITAL ADVISORS, LLC

Sovereign Medicare Recovery Trust - SMRT

The Sovereign Medicare Recovery Trust (SMRT) is a one-off specialty litigation case that is a secured loan to a plaintiff, major non-profit organisation.

The Trust is paying investors a 9% return on capital (ie even if the case is lost, investors get capital returned plus 9%) in the best case (ie if the settlement were to exceed USD1 bn from a claim of approximate USD100 bn) it would offer a six to one plus the return of capital and 9%.

It is low risk, as the plaintiff is escrowing funds to assure loan repayment

Focus: recover medical costs paid by Medicare

Strength: low risk, high return

Weakness: "tobacco dollars" back defence

Opportunities: recovery helps refinance Medicare

Threat: if the plaintiff decides to drop the case; liquidity constrains on the plaintiff

Risk: the plaintiff has an estimated USD25 mn income, and is placing 15% in escrow to assure repayment of the loan plus regular interest at 9% to investors

Ability to identify litigation cases that will be funded: identify genuine, high-potential cases the plaintiff approached the Trust, as it is an organisation representing senior (over 65 years old) interest and came "in" via the firm's venture capital vehicle which is active in the anti-aging research and litigation investments

Level of litigation expertise: there are five major law firms working on contingency in this case - all top level litigators and they are anxious to punish tobacco companies for proven RICO violations that are resulting in thousands of smoking related illnesses and death. As an example - a Harvard study was just released showing nicotine levels have risen 11% in last 10 years. In order to compensate for those that quit smoking, tobacco companies are being accused of retaining smokers, with more addiction

Ability to procure documentation: a lot of evidence has been made available due to smoking related cases One Federal Judge (Kessler) gave a 1743 page opinion on why the tobacco companies as well as their attorneys, are guilty of RICO violations

Ability to actually claim the proceeds due: escrowed funds to pay the loan, win or lose Big tobacco companies would most likely pay rather than deal with the negative publicity that accompanies such a settlement

Ability to efficiently allocate capital: this is a loan to the plaintiff for the consumer awareness side of the case

No. of litigation cases held in trust: single

Avg. duration litigation case lasts, until claims are paid out: two years to return capital and 9%, could be longer on settlement of 6 to 1

Reward: offers uncorrelated returns

Scope for litigation trusts: this is slated to develop into a growing industry due to relatively high yields offered

Barriers to entry: expertise; ability to raise capital; most investors have never heard of litigation investment - educational process involved.

Competition: limited thus far, but growing

Investment Criteria: target audience - accredited investors under US Reg D requirements for US citizens and residents.
access to investors: globally

Trust size: USD1 - 4mn

Liquidity provided: need to be invested for the life of the trust - max. 2 years
Transparency provided: quarterly distributions

Authorities trust is regulated by: formed as a Delaware Statutory Trust (ie a Business Trust) and Regulation D 506 offering documents under SEC private placement rules.