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**Health and Welfare Fund**

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**DRAFT**

# MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF THE BAKERS UNION AND FELRA HEALTH AND WELFARE FUND DECEMBER 13, 2013 IN LANDOVER, MARYLAND

The following Trustees were present:

**UNION TRUSTEE**
Al Haight - Secretary
G. Oskoian

**EMPLOYER TRUSTEES**
J. Champion

Also present were:

H. Burton - Morgan, Lewis & Bockius, LLP
M. DeLancey - Dickstein Shapiro, LLP
B. Gajewski – VSP Vision Care
C. Little - PNC Bank, NA
J. Middleton – Catamaran Rx
A. Sims - Associated Administrators, LLC
M. Walter – ING Employee Benefits
J. Webb – CIGNA
D. Welch – Associated Administrators, LLC

## I. CALL TO ORDER

A quorum being present, the Chairman called the meeting to order.

## II. MINUTES

A. The Trustees reviewed the minutes of the special meeting held on September 25, 2013.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees

voted unanimous approval of the following resolution:

**RESOLVED that the minutes of the special meeting held on September 25, 2013 were approved as presented.**

B. The Trustees reviewed the minutes of the last regular meeting held on October 4, 2013.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees voted unanimous approval of the following resolution:

**RESOLVED that the minutes of the last regular meeting held on October 4, 2013 were approved as presented.**

## III. FINANCIAL REPORT - PNC Bank, NA - Summary of Activity

The Trustees welcomed Mr. Little and Mr. Herwig from PNC Bank, NA to the meeting. Mr. Little presented the Summary of Activity Report for the period December 31, 2012 through November 30, 2013. Such report showed a beginning market value of $1,233,313, receipts of $4,237,754, and disbursements of $4,237,374, investment income of $5,466, and market value loss of $1,543, producing an ending market value of $1,147,617.

Mr. Little presented the asset allocation as of November 30, 2013. The Fund held 68% in a limited maturity bond and 32% in cash. The estimated annual income was $5,157 with an estimated 0.4% yield.

The Trustees thanked Mr. Little and Mr. Herwig for their report and they were excused from the meeting.

## IV. CO-COUNSEL REPORT

### A. Subrogation Issue

Mr. Burton reported that at the last meeting he had reported on a participant that has a lien in the amount of $54,706.67 in claims arising from a May 25, 2010 car accident. Mr. Burton reported that the case is going to arbitration, and the attorney is petitioning the Fund to accept "one-third" of the recovery from arbitration as full payment of the lien. He explained that instead of the case going to trial, it is going to arbitration and the highest pay out would be $100,000 and the lowest $35,000.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees voted approval of the following resolution:

> **RESOLVED to approve the petition for the Fund to accept "one-third" of the recovery from arbitration as full payment of the participant's lien.**

B. **Internal Revenue Service Ruling 2013-17**

Ms. Sims reported that on August 29, 2013, the U.S. Department of Treasury and the Internal Revenue Service issued Revenue Ruling 2013-17 announcing that the IRS will recognize "all legal same-sex marriages…for federal tax purposes." The IRS determined that a couple would be considered "married" for federal tax purposes if their marriage certificate was issued by a domestic or foreign jurisdiction having the legal authority to sanction marriages. Co-Counsel reported that there was no action required by the Trustees at this time as the Plan and Trust documents for the Health and Welfare Plan were already in compliance with this ruling.

## V. ADMINISTRATIVE MANAGER REPORT

A. **Third Quarter 2013**

Ms. Sims presented the Administrative Manager Report for the third quarter 2013. The report showed Employer contribution income of $1,068,866, employee contributions of $5,629, interest and dividend income of $1,116, and miscellaneous income of $15,786, producing a total income of $1,068,866. Expenses included $589,883 for medical benefits, $30,993 for CIGNA premiums, $85,779 for dental premiums, $30,543 for disability benefits, $201,812 for prescription drug benefits, $6,935 for life insurance benefits, $35,491 for stop loss insurance, $10,669 for optical benefits, and $65,235 in

operating expenses, producing total expenses of $1,057,340 and resulting in a surplus of $11,526 for the third quarter of 2013. She further reported that contributions were made on behalf of 554 active participants and that there were no delinquencies. The Fund reserve was $1,037,093 as of September 30, 2013 which represented 2.6 months.

B. **ACA Compliance**

**a. Eligibility Rules – 96 Hour Requirement**

Ms. Sims reported that the Plan's current eligibility rules state that "*you will become a participant on the first day of the month following three consecutive months in which you have worked at least 96 hours each month, following the date your employer is required to make the first contribution to the Fund on your behalf."* She asked the Trustees for clarification on how this eligibility should be handled due to the contribution change from an hourly to a monthly flat rate. After considerable discussion, the Trustees requested that the Employer Trustees confirm with their payroll departments whether hourly data could be submitted to the Fund and provide a recommendation to the Board as to how the eligibility should be handled going forward.

**b. 90-Day Eligibility Requirement effective January 1, 2014**

Ms. Sims reported that on March 21, 2013, the Departments of Treasury, Health and Human Services (HHS) and Labor (collectively, the "Departments") published a proposed rule implementing the ban on eligibility waiting periods exceeding 90 days, which was enacted as part of the Affordable Care Act. She explained that the proposed rule defines a "waiting period" as the period that must pass before coverage for a participant or dependent who is otherwise eligible to enroll under the terms of the plan can become effective. Eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days. Ms. Sims asked for direction from the Trustees on whether the eligibility provisions of the Plan should be changed in order to be in compliance with this regulation. Co-Counsel confirmed that the Plan 1 and the Full Time Plan 2 eligibility provisions for this Fund are already in compliance with this regulation. However, the Plan 2 waiting period for optical benefits would need to be changed

to 13 months in order for the Fund to be in compliance. Co-Counsel explained that it would not be in the economic interest of the plan to continue the ASO optical arrangement and the Trustees could consider changing the optical benefits to a fully insured product, in which case these benefits would be considered "excepted benefits" under the ACA regulations and not subject to the 90-day eligibility requirement. The Trustees discussed the options available and requested that the Optical Service provider submit a proposal for fully insured optical benefits, effective 1/1/14.

**c. Annual Limit Waiver Extension**

Ms. Sims reported that as a condition of receiving a three-year annual limit waiver/waiver extension for Plan 2 Participants for $100,000, the Fund was required to provide the Center for Consumer Information and Insurance Oversight (CCIIO) with annual updates that include the following: (1) updated contact information, (2) total enrollment, and (3) the Plan's current annual limit. She said an updated spreadsheet was being reviewed by Co-Counsel and will be submitted to the CCIIO prior to the December 31, 2013 filing deadline.

d. **Annual Limit Increase Effective January 1, 2014**

In order to be compliant with the PPACA regulations, Ms. Sims requested Trustee approval to eliminate the annual maximums for Plan 1 and Plan 2 effective January 1, 2014. The Trustees approved eliminating the annual limit for Plan 1 and Plan 2 effective January 1, 2014.

**e. Full Time Election of Health Coverage**

Ms. Sims reported that as of December 13, 2013, 246 Full Time participants had returned their completed payroll deduction authorization forms and elected to continue their health coverage under the Plan. She requested confirmation of the Plan's process when a participant does not affirmatively elect coverage by 1/1/14.

After discussion, the Trustees, On MOTION made and seconded, subject to Trustee Gillis' approval, voted approval of the following resolution:

**RESOLVED to allow Full-Time participants to return completed payroll deduction authorization forms until December 31, 2013. If a completed form is not received by this date coverage will be terminated 1/1/14. Participants will only be allowed to elect coverage during the open enrollment period held in November of every year.**

**f. Rescission of exclusion of adult dependent children who are eligible for their own employment based coverage**

Ms. Sims reported, in accordance with the Segal compliance report, that the Plan must be amended to rescind the exclusion of adult dependent children who are eligible for their own employment based coverage, effective January 1, 2014.

On MOTION made and seconded, subject to Trustee Gillis's approval the Trustees voted unanimous approval of the following:

**RESOLVED to rescind the exclusion of adult dependent children who are eligible for their own employment based coverage, effective January 1, 2014.**

Ms. Sims noted that the Summary Plan Description and applicable plan documents will need to be updated to reflect the approved modifications.

**g. Summary of Benefits and Coverage**

Ms. Sims reported that per Trustee directive at the October 4, 2013 Board of Trustees meeting, Segal has submitted a proposal of $8,500 to assist the plan in the creation of the Summary of Benefits and Coverage ("SBC") for the 2014 Plan year. The Trustees discussed the upcoming bargaining and decided to table this until bargaining was complete.

**h. Independent Review Organizations**

Ms. Sims reported that under the Patient Protection and Affordable Care Act

("PPACA"), if the Fund loses grandfathered status, it is required to have two to three Independent Review Organizations (IROs) available if there are any appeals requiring an external independent review. Ms. Sims reported that Co-Counsel had been sent details on three IRO's for Trustee consideration: (1) MCMC, (2) MRIoA, and (3) IIMed. Co-Counsel reported that they would review the materials and provide a recommendation for Trustee consideration at the next scheduled meeting.

## VI. INVOICES

Ms. Sims presented a list of invoices dated December 13, 2013. It was noted that there were no additions, deletions or changes to the list.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees voted unanimous approval of the following resolution:

**RESOLVED that the list of invoices dated December 13, 2013 was approved for payment as presented.**

## VII. PARTICIPANT APPEALS

| ***Appeal Number*** | ***Issue*** | ***Board Decision*** |
|---|---|---|
| M13/131-1602 | Nonparticipating Provider | Approved |
| M13/145-9232 | Nonparticipating Provider | Denied |
| M13/147-8499 | Nonparticipating Provider | Approved |
| E13/149-8876 | Dependent Coverage | Approved. |

## VIII. PROVIDER REPORTS

### A. CIGNA

The Trustees welcomed Mr. Webb from CIGNA Healthcare to the meeting.

**PPO Savings Report**

Mr. Webb distributed a report entitled "Bakers Union and FELRA Health and Welfare Trust Fund - Year to Date Savings Results (September 1, 2012 through August 30, 2013)." He reported that the Fund's inpatient, outpatient and physician network savings from September 1, 2012 through August 30, 2013 totaled $3,144,254, which represented a total network savings of 45.8%. Mr. Webb reported that the care management savings for the same period were $98,178. He stated that the Fund's inpatient, outpatient and physician network savings from September 1, 2012 through August 30, 2013 were $1,735,054, which represented a total network savings of 53.9%.

The Trustees requested that CIGNA submit a proposal for fully-insured optical services, effective January 1, 2014. They thanked Mr. Webb for his presentation and he was excused from the meeting.

**B. Catamaran Rx.**

The Trustees welcomed Ms. Middleton from Catamaran Rx to the meeting.

**Executive Summary**

Ms. Middleton distributed a report entitled "Bakers Union and FELRA Health and Welfare Fund – November 2012 - October 2013 Utilization." During the period November 1, 2012 through October, 31, 2013 there were 10,540 prescriptions filled, for which the Plan paid $895,572.19 in prescription costs and the members paid $116,613.77 in co-payments. The average cost per member per month was $63.76. The Fund's generic utilization rate for the period was 73%.

The report also reviewed the Fund's Top 5 Diseases by Plan Cost, Top 10 Therapeutic Classes by Plan Cost, Top 20 Drugs by Total Plan Cost, and Top Specialty Drugs by Plan Cost.

The Trustees thanked Ms. Middleton for her report and she was excused from the meeting.

**C. Vision Service Provider (VSP)**

Mr. Gajewski distributed a copy of a letter entitled "January 1, 2014 VSP RENEWAL." He noted that the Fund's administrative services only contract with VSP is set to expire December 31, 2013 and that VSP had submitted a proposal for Trustee consideration that offers a three-year renewal, for the period January 1, 2014 through December 31, 2017, with a zero percent increase in the rate. The Administrative fee would remain at $0.60 per member per month. The Trustees requested that VSP submit a proposal for the fully insured product offered for Trustee consideration.

**D. ING/RELIASTAR - Stop Loss/Life/AD&D Renewal**

The Trustees welcomed Mr. Mark Walters from ING/ReliaStar to the meeting.

**i. Stop Loss Policy Renewal**

Mr. Walters presented a rate proposal, dated December 10, 2013, for the Stop Loss policy renewal effective January 1, 2014. He reported that the proposed composite rate for 2014 is $29.46 per member per month (pmpm) for Plan 1. He reported that this proposal retains the current $300,000 individual deductible and $50,000 aggregating deductible but increases the annual maximum unlimited and the lifetime maximum to unlimited. Mr. Walter said that if the Trustees added Plan 2 participants to the policy, effective January 1, 2014, the rate would be the same but Plan 2 would be set up as a separate plan under the policy.

The Trustees asked Mr. Walter if ING would consider a lower rate for Plan 2 participants if census data was provided to them that would justify a lower rate. Mr. Walter reported that this would be an option.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees voted unanimous approval of the following resolution:

**RESOLVED to adopt the 2014 Stop Loss Alternative #1 Renewal Plan 2014 Option, with an individual deductible of $300,000 and an aggregating deductible of $50,000 for a composite rate of $29.46 per member per month, subject to adding Plan 2 participants to the policy effective January 1, 2014.**

**ii. Basic Life and Basic Accidental Death and Dismemberment Policy**

Mr. Walters reported that the Basic Life renewal rate of $0.205 per $1,000 in coverage for the period January 1, 2014 through December 31, 2014 remains the same as the previous period and the Basic Accidental Death and Dismemberment rate of $0.02 per $1,000 in coverage remains the same as the previous period.

On MOTION made and seconded, subject to Trustee Gillis' approval, the Trustees voted approval of the following resolution:

**RESOLVED to adopt the Basic Life and Basic Accidental Death and Dismemberment Policy for the period January 1, 2014 through December 31, 2014, as presented.**

The Trustees thanked Mr. Walters for his report and he was excused from the meeting.

## IX. OTHER FUND BUSINESS

### A. Women's Health and Cancer Rights Notice

Ms. Sims reported that the Women's Health and Cancer Rights Act Notice had been mailed to participants.

### B. Updated Notice of Privacy Practices

Ms. Sims reported that updated Notices of Privacy Practices had been mailed to Plan participants and service providers.

### C. Updated HIPAA Business Associate Agreements ("BAA")

Ms. Sims reported that Co-Counsel had drafted a copy of a revised BAA which had been

mailed to service providers for execution. Co-Counsel noted that the BAA's in place as of January 25, 2013 which are not renewed or amended thereafter, are grandfathered for an extra year and must be revised by September 23, 2014.

**D. Updated COBRA Notice**

Ms. Sims reported that the Department of Labor (DOL) recently released an updated COBRA Notice model for single-employer plans to help make qualified beneficiaries aware of other coverage options available in the Marketplace under the Affordable Care Act. She stated the DOL did not address an effective date for the updated notice nor are there mandates requiring the notice to be updated.

After a discussion, On MOTION made and seconded, subject to approval by Trustee Gillis, the Trustees voted approval of the following resolution:

> **RESOLVED to adopt the updated COBRA Notice with language regarding the Marketplace under the Affordable Care Act effective January 1, 2014.**

**E. Summary Annual Report**

Ms. Sims reported that the Summary Annual Report for the 2012 Plan year had been mailed to participants.

**F. Summary of Material Modification**

Ms. Sims reported that a Summary of Material Modifications ("SMM") detailing all the changes to Plan 1 and Plan 2 due to the Plan's loss of grandfathered status, effective January 1, 2014 had been mailed to participants. She further reported that the SMM notifying the Part-Time participants of the elimination of their medical and Rx benefits effective January 1, 2014 had been mailed to Part-Time participants and their dependents October 1, 2013. Ms. Sims reported that per Trustee/Co-Counsel directive this SMM also notified these participants of their HIPAA and COBRA rights.

**G. Fiduciary Liability Policy - Waiver of Recourse Premiums**

Ms. Sims reported that per Trustee directive on January 12, 2013, the fiduciary liability

insurance policy for the period January 1, 2014 through December 31, 2014 had been renewed with CHUBB for an annual fee of $3,150 and that all the Trustees will receive their waiver of recourse invoices for payment.

## X. NEXT MEETING DATE AND LOCATION

The Trustees directed that a Special Board meeting be held on Friday, January 17, 2014 at 10:00 a.m. in Landover, Maryland.

## XI. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,
Al Haight, Secretary