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Health and Welfare Fund

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DRAFT

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF TRUSTEES OF THE BAKERS UNION AND FELRA HEALTH AND WELFARE FUND SEPTEMBER 25, 2013 IN LANDOVER, MARYLAND

The following Trustees were present:

UNION TRUSTEE
Al Haight - Secretary
G. Oskoian

EMPLOYER TRUSTEES
D. Gillis – Chairman (via-teleconference)
J. Champion

Also present were:

H. Burton - Morgan, Lewis & Bockius, LLP
M. DeLancey - Dickstein Shapiro, LLP
R. Logue – Segal Consulting (via tele-conference)
A. Sims - Associated Administrators, LLC
J. Timm – Segal Consulting
D. Welch – Associated Administrators, LLC

I. CALL TO ORDER

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

II. INTERIM ACTION

A. **Segal Consulting Proposal for Patient Protection and Affordability Act Compliance effective January 1, 2014**

Ms. Sims reported that the Trustees, via email poll, approved Segal's proposal, dated August 20, 2013to assist the Fund with Patient Protection and Affordability Care Act ("ACA") compliance, for a fixed fee of $6000.

B. Segal Consulting Proposal for Fund Budget Projections and Analysis

Ms. Sims reported that the Trustees, via email poll, approved Segal's proposal, dated August 26th, 2013 to prepare a full budget projection and analysis for the Fund, as well as pricing out plan design options for Trustee consideration, for a fixed fee of $13,000.

III. SEGAL CONSULTING REPORT

The Trustees welcomed Mr. Josh Timm and Mr. Robert Logue from Segal Consulting to the meeting.

A. **Fund Budget Projections**

Mr. Timm distributed a memorandum and exhibits entitled "Budget Projections". He explained that the memorandum and attached exhibits summarize Segal's analysis of the Fund's current financial status and projections through calendar year 2014. Mr. Robert Logue reviewed the new monthly contribution rates, which replaced the hourly employer contribution rates, effective August 1, 2013. He said per the Memorandum of Agreement, dated XXXX, states the rates currently payable by employers are the same as Plan X and Plan XX of the UFCW and FELRA Health and Welfare Fund, and the employee contribution rates are to be determined and handled via payroll deductions. Mr. Logue provided an overview of a comparison of the average new monthly contribution rates to actual employer contributions for the last two and a half years. He then reviewed the baseline budget projections through calendar year 2014 assuming no changes to benefits except the modification in employer contribution rates and those needed to comply with the Patient Protection and Affordable Care Act of 2010 ("ACA").

Mr. Logue reported that Segal used the following key assumptions in their analysis: (1) Fund reserves equal Net Assets Available for Benefits less incurred But Not Reported Claim Reserves ("IBNR") and are targeted to equal three months of current year total expense, (2) IBNR is calculated at 12.4% of self-insured claims, (3) The plans will be bought into compliance with ACA, (4) The plans will no longer be grandfathered under ACA, (5) employer contributions will be only those based on the new monthly rates, (6) the rates are those currently payable by employers participating in Plan X and Plan XX of the UFCW and FELRA Health and Welfare Fund and are subject to change, and (7) The

number of participants on whom contributions are made, and the number of eligible member for each benefit plan, will remain constant throughout 2014.

Mr. Logue reviewed three exhibits which showed the baseline projections for Plan 1 and Plan 2 and for the total Fund. He explained that the projections for self-funded claims were based on their analysis of claims paid for the period January 2011 through June 2013 and assume future annual claims trend of 7% for medical and 6% for pharmacy benefits. Mr. Logue provided an overview of the expense projections for new ACA-related costs, which include: (1) Comparative Effective Research Fees, effective 2013 at $1 per year per individual and increased to $2 per year per individual in 2014, (2) Transitional Reinsurance Fees, which will start in 2014 at $63 per year per individual, (3) Claims will increase because of the loss of grandfather status and the resulting requirement that many preventative services will be covered at 100% with no participant cost share, and (4) Claims will increase for Plan 2 because the annual limits will need to be removed. He said the cost projections include $206,200 for the new ACA-related costs in 2014.

Mr. Timm explained that the Fund's operating loss in 2014 is projected to be $775,936, which will reduce the Fund reserves to a negative position. He said, per the MOA, any shortfall in Fund reserves will be made up through new employee contributions or through plan changes to reduce expenses. Mr. Timm reported that in order to make up the shortfall solely through employee contributions, a total of $1,441,954 is needed. Assuming this is spread equally to all 554 participants and will become effective January 1, 2014, the needed additional contribution is $217 per employee per month, with an additional $212 being added to the employee contribution rate for Plan 1 part time family coverage ($429 employee contribution per month). Mr. Timm concluded that the shortfall could be made up through reduction in Fund expenses and benefits. After considerable discussion, the Trustees requested that Segal develop recommendations for potential plan changes to reduce projected expenses of the Fund for 2014 and 2015 for Trustee consideration.

B. **Affordable Care Act Compliance**

Mr. Timm distributed his reports titled, "Affordable Care Act Compliance – Current

Status and Update on Pending Issues for 2013 and 2014" and "Affordable Care Act Compliance – Key Action Items."

i. Minimum Value and Affordability

Mr. Timm directed the Trustees to the Key Action Items report which listed items that needed Trustee approval. Mr. Timm discussed the need for the Plan to calculate minimum value and affordability stating this information is required for upcoming notices 1) notice to employers so that they can send notices to employees about the health insurance Exchanges which needs to be mailed to employees no later than October 1, 2013 and 2) to update the Summaries of Benefits and Coverage (SBC) for the Plan year 2014 which need to be mailed no later than December 1, 2013.

ii 2014 Summary of Benefits and Coverage ("SBC")

Mr. Timm discussed the additional updates needed for the SBC for the 2014 Plan year. He stated the SBC is required to be updated on an annual basis and must be mailed 30 days prior to the start of the Plan year. Mr. Timm indicated the updates could be substantial if the Trustees decided to make benefit changes. The Trustees requested that Segal provide them with a proposal to assist the Fund in updating the SBC's for the 2014 Plan year.

iii Dependent Children

Mr. Timm reported that the Fund is required to stop excluding adult children who are eligible for their own employment-based health coverage from the Fund, effective January 1, 2014.

iv. Elimination of Annual Maximum

Mr. Timm said that the Trustees would need to remove the Fund's annual dollar limit of on specific benefits including: (1) remove the Plan 1 basic benefits; medical/surgical office visits (in/or outpatient), $10 benefit, starting on the third visit, no deductible (balance paid at 80% under Major Medical up to a $600

calendar year maximum); (2) remove the annual limit on the Mental health/substance use disorder office visits (same as medical/surgical office visits; (3) remove the Plan 1 $200 benefit limit on adult physicals available every two years between the participant and his/her spouse, (4) Plans 1 and 2, remove the $500 per person, and $1,000 annual limit on chiropractic treatment, (5) Remove the Fund's the following dollar limits on the Fund's out of network optical coverage: Exams - $46; Lined Single Lens - $55; Lined Bifocal Lens - $75; Lined Trifocal Lens - $95; Frames - $45, and Contact Lenses - $105 (in lieu of glasses) or $210 (if medically necessary). Mr. Timm said that the Fund should also review with Fund Counsel whether the annual dollar limits on Out-of-Network Optical coverage should be eliminated on coverage provided to individuals under age 19 in view of the ACA's prohibition on annual dollar limits on pediatric vision coverage. Counsel confirmed they would review and provide a recommendation at the next scheduled meeting.

v. <u>Grandfathered Status</u>

Mr. Timm reported that the Fund, with Co-Counsel, should review whether the plan is still considered grandfathered with the recent changes under the Memorandum of Agreement, including employee contributions, effective January 1, 2014. He explained that if the Fund loses grandfathered status, it will need to begin complying with the group health mandates that apply to non-grandfathered plans, including the latest FAQ guidance: preventative services without cost sharing; emergency room services; internal claims and appeals, and external review. Co-Counsel confirmed that the plan would be considered non-grandfathered effective 1/1/2014 and subject to compliance items listed above.

vi. <u>90-Day Eligibility Requirement effective January 1, 2014</u>

Mr. Timm reported that n 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. Mr. Timm concluded that the eligibility provisions for this Fund would need to be reviewed and determined if they are in compliance with the ACA's guidelines.

Mr. Timm noted that the Summary Plan Description and applicable plan documents will need to be updated to reflect any approved ACA, MHPAEA and other approved modifications.

The Trustees thanked Mr. Timm and Mr. Logue for their report and they were excused from the meeting.

X. NEXT MEETING DATE AND LOCATION

The Trustees directed that a Special Board meeting be held on Wednesday, September 25, 2013 at 9.30 a.m. in Landover, Maryland.

XI. ADJOURNMENT

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

Respectfully submitted,
David Gillis, Chairman