FELRA & UFCW Health & Welfare Plan

A Plan of the Food Employers Labor Relations Association and United Food and Commercial Workers VEBA Fund

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MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF THE FELRA AND UFCW VEBA FUND VIA TELECONFERENCE APRIL 16, 2020

The following Trustees were present:

Union Trustees	**Employer Trustees**
M. Federici - Secretary	J. Paradis - Chairman
J. Chorpenning	D. Dosenbach
A. Hanson	M. Goble
E. Masten	

Also present were:

Y. Anwar - UFCW Local 400
L. DuVall - Associated Administrators, LLC
N. Eid - Confidio
J. Hack - UFCW Local 27
J. Harrison - UFCW Local 27
J. Herishen - Calibre
N. Hill - UFCW Local 27
T. Hipkins - UFCW Local 27
C. Hoffmann - UFCW Local 400
N. Jacobs - UFCW Local 400
D. Jensen - Associated Administrators, LLC
W. Jensen - Associated Administrators, LLC
M. Kreps - Groom Law Group
C. McDonough - Investment Performance Services
R. McKnight - Associated Administrators, LLC
C. Murphy - Associated Administrators, LLC
S. Ridore - Safeway
S. Sanchez - Slevin & Hart, P.C.
R. Sichel - Investment Performance Services
B. Slevin - Slevin & Hart, P.C.

J. Timm - The Segal Company
L. Walsh - Associated Administrators, LLC
R. Wildt - UFCW Local 27
M. Wilson - UFCW Local 400

I. <u>CALL TO ORDER</u>

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

II. <u>MINUTES</u>

The Trustees reviewed the minutes of the last regular meeting held on September 24, 2019, the Appeals Committee meetings of October 25, 2019, November 19, 2019, December 10, 2019, January 10, 2020, February 6, 2020, and March 16, 2020, all of which were pre-circulated.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, that the minutes of the regular meeting held on September 24, 2019, the Appeals Committee Meetings of October 25, 2019, November 19, 2019, December 10, 2019, January 10, 2020, February 6, 2020 and March 16, 2020 are approved as presented.**

III. <u>FINANCIAL REPORT</u>

A. <u>PNC Bank</u>

1. Summary of Activity Report – ERISA Account - December 31, 2019

Mr. Jensen presented the PNC Summary of Activity report for the period January 1, 2019 through December 31, 2019. Such report indicated a beginning market value of $27,570,275, earnings of $2,195,636, receipts of $145,030,410, and disbursements of $139,146,596, producing an ending market value of $35,649,725 as of December 31, 2019.

2. Summary of Activity Report – Non-ERISA Account DDA– December 31, 2019

Mr. Jensen presented the PNC Summary of Activity report for the Non-ERISA account for the period January 1, 2019 through December 31, 2019. Such report indicated a beginning market value of $1,180,645, no earnings, receipts of $149,775,390, and disbursements of $149,932,997, producing an ending market value of $1,023,038 as of December 31, 2019.

Mr. Jensen noted that as of February 29, 2020, the FELRA Welfare Fund had $34,950,080 representing 3.10 months of reserves compared to 2.97 months as of January 31, 2020. The average expense for the four quarters ending December 31, 2019 was $11,287,431 per quarter.

B. <u>Investment Performance Services</u>

The Trustees welcomed Mr. Rich Sichel and Mr. Chris McDonough of Investment Performance Services to the meeting.

1. Preliminary Performance Update – February 29, 2020

Mr. Sichel reviewed the Preliminary Performance Report for the period ending February 29, 2020. Such report indicated a beginning market value of $36,903,863, a negative net cash flow of $5,282,524 and a negative net investment change of $291,181, resulting in an ending market value of $31,330,158. The year-to-date performance through February 29, 2020 was -0.8% gross of fees.

2. Asset Allocation

Mr. Sichel reported on the Fund's real estate allocation and recommended the Trustees submit a full redemption request to American Realty Advisors ("ARA") core real estate, which would reduce the Fund's real estate allocation to 0%. Mr. Sichel recommended that proceeds from the American Realty Advisors redemption be allocated to the Fund's Segal Bryant and Hamill ("SBH") investment grade fixed income portfolio. He stated that he will present information regarding the Fund's long-term expected risk/return at the next meeting.

After discussion, on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, to approve a full redemption of the Fund's ARA core real estate portfolio; and

FURTHER RESOLVED, to amend the Investment Policy to reduce the Fund's real estate allocation target to 0%.

3. Segal Marco Advisors

The Trustees discussed the proxy voting services provided by Segal Marco Segal Advisors and agreed with IPS that due to the changes in the Fund's asset allocation that eliminated separately managed equities, proxy voting services are no longer relevant.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolutions:

RESOLVED, to terminate the proxy voting services of Segal Marco Advisors effective immediately.

The Trustees thanked the representatives of IPS for their report and they were excused from the meeting.

C. <u>Auditor's Report</u>

The Trustees welcomed Mr. Joseph Herishen of Calibre to the meeting.

1. Financial Statements – December 31, 2018

Mr. Herishen presented the Financial Statements for the period ended December 31, 2018. He noted that the auditor's opinion was unmodified and the financial statements were in conformity with generally accepted accounting principles.

Mr. Herishen reported that total assets were $57,231,813 and total liabilities were $2,203,888, producing net assets available for benefits of $55,027,925. Mr. Herishen reviewed the Notes to Financial Statements, Schedule of Assets Held for Investment Purposes, Schedule of Employer Contributions, and Schedule of Administrative Expenses.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to accept the Auditor's 2018 Financial Statements as presented.**

2. Calibre's Engagement Proposal

Mr. Herishen presented Calibre's engagement proposal and proposed side letters relating to the 2019 audit, along with Calibre's planning letters relating to the audit. Mr. Herishen stated that the estimated retainer fees for the 2019 audit would not exceed $78,400, which reflects no increase compared to the prior year. Non-retainer fees would range from $90.00 to $345.00 per hour.

3. Payroll Audit

Mr. Herishen reported that his firm had completed a payroll audit of Safeway for the period January 2014 through December 2017, which revealed a discrepancy of $63,626.00 for the VEBA Fund. Mr. Herishen stated that the audit findings information had been sent to Safeway for review. Trustee Dosenbach stated that Safeway was reviewing the audit findings and would follow up with Calibre within two weeks.

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

The Trustees reviewed the engagement proposal submitted by Calibre. After discussion and,

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve the engagement proposal submitted by Calibre to perform the 2019 audit at a fee not to exceed $78,400.**

IV. CONSULTANT'S REPORT

A. Confidio

The Trustees welcomed Ms. Nancy Eid of Confidio to the meeting. Ms. Eid reported on the prescription drug programs unanimously approved by the Board between meetings, including the SaveOn specialty pharmacy program, the Prescription Care Management ("PCM") alternative therapy program, an Employer Group Waiver Plan ("EGWP") with wrap, and the Express Scripts, Inc. ("ESI") Utilization Management ("UM") program with enhanced Prior Authorizations. Ms. Eid then provided updated UM program recommendations for the Trustees' consideration and explained the reasons for the updated recommendations.

After discussion, On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve the updated UM recommendations recommended by Confidio, effective July 1, 2020.**

Ms. Eid reported that the SaveOn and PCM programs will be implemented June 1, 2020, the newly adopted ESI UM program will be implemented July 1, 2020 and the EGWP will be implemented January 1, 2021. Confidio will work with the Fund office and Fund co-counsel to implement these programs.

Ms. Eid reported that the Trustees will need to execute certain documents to implement the above-described prescription drug program changes.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to delegate to Chairman and Secretary the authority to execute any documents necessary to implement the approved prescription drug program changes**.

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

B. The Segal Company

The Trustees welcomed Mr. Josh Timm of the Segal Company to the meeting

1. Conifer/Carewise Health Transition

Mr. Timm reported on the successful transition from Carewise/SHPS and Health Dialog to Conifer, effective January 1, 2020. Mr. Timm advised that the Fund office worked with co-counsel and all three firms to effectuate the transition. Communications regarding the transition were sent to the Plan participants.

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

V. ATTORNEY'S REPORT

A. Memoranda of Agreement ("MOA").

Mr. Slevin reported on the agreements reached by the Locals and Giant, Safeway and Acme (collectively, the "Employers").

B. Coronavirus-Related Legislation

Ms. Sanchez reviewed the Slevin & Hart memoranda dated March 20, 2020 and April 1, 2020 regarding the Families First Coronavirus Response Act ("FFCRA") and the Coronavirus Aid, Relief and Economic Security ("CARES") Act.

Ms. Sanchez reported on the Trustees' decision between meetings regarding coverage of mandated COVID-19 testing. Ms. Sanchez also reported on the Trustees' decision between meetings regarding coverage for telemedicine appointments.

After discussion, on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to revise the effective date of the above-referenced temporary telemedicine benefit to be March 1, 2020.**

Ms. Sanchez also reported on payment of out-of-network claims for COVID-related testing and services. The Trustees discussed appointing a subcommittee to address Covid-19 related issues between Board meetings.

After discussion, on Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to delegate to the Chairman and Secretary the authority to take action on any COVID-related issues that arise between meetings.**

The Trustees discussed the Plan rules regarding coverage in the event of employment termination or an unpaid leave of absence.

C. HHS Guidance on COVID-19.

Ms. Sanchez reviewed Slevin & Hart's April 7, 2020 correspondence regarding the HIPAA privacy rules to COVID-related participant information.

D. Calibre Engagement Letter and Side Letter

Mr. Slevin reported on the Calibre engagement letter and side letter.

E. Confidio Data Breach

Ms. Sanchez discussed a data breach reported by Confidio.

F. SUPPORT Act

Ms. Sanchez reported on the rules relating to Responsible Reporting Entities under the SUPPORT Act.

G. Stop Hacks and Improve Electronic Data Security ("SHIELD") Act.

Ms. Sanchez reported on the New York State SHIELD Act.

H. Deadlock Regarding Participant Appeal

Ms. Sanchez reported on the resolution of the previously pending Trustee deadlock relating to a participant appeal.

I. ESI Overpayment

Ms. Sanchez reported on the Fund's refund from ESI.

J. Prescription Drug Class Actions

Ms. Sanchez reported on recent prescription drug class actions

K. Subrogation

Mr. Jensen stated that Slevin & Hart reported subrogation recoveries of $77,638.71 with $15,527.74 payable to Slevin & Hart for the third quarter 2019.

Mr. Jensen stated that Slevin & Hart reported subrogation recoveries of $61,063.25 with $12,212.65 payable to Slevin & Hart for the Fourth quarter 2019.

VI. ADMINISTRATIVE MANAGER'S REPORT

A. Associated Administrators, LLC ("Associated")

Ms. Laura Walsh stated that as previously announced, Mr. Bill Jensen will retire April 30, 2020. The Associated team to provide administrative services to the FELRA Funds will be Account Executives Ms. Linda DuVall and Mr. David Jensen, along with Account Managers Ms. Colleen Murphy and Mr. Ryan McKnight. She reviewed their years of employment with Associated and their backgrounds in Taft-Hartley benefits administration and client relations, noting that a summary of their experience and qualifications is available on the Trustee web portal.

B. Third Quarter 2019 – Combined Fund Recap

Mr. Jensen presented the Administrative Manager's Report for the Third Quarter 2019. For the combined VEBA Fund, Active and Retiree Plans, total income was $33,579,416. Expenses totaled $35,171,914, producing a net deficit of $1,592,498 for the Third Quarter

2019. Mr. Jensen noted that contributions were made on behalf of 15,718 active Plan participants.

Mr. Jensen presented a snapshot of work performed by Associated Administrators during the Third Quarter 2019. The report reflected the processing of 387 accident and sickness claims, 110 appeals, 11,488 participant service calls, the production of 448 COBRA notices, the processing of 90,826 medical claims, and mailings to 63,804 Plan participants.

C. <u>Fourth Quarter 2019 – Combined Fund Recap</u>

Mr. Jensen presented the Administrative Manager's Report for the Fourth Quarter 2019. For the combined VEBA Fund, Active and Retiree Plans, total income was $33,153,216. Expenses totaled $33,399,907, producing a net deficit of $246,691 for the Fourth Quarter 2019. Mr. Jensen noted that contributions were made on behalf of 15,547 active Plan participants.

Mr. Jensen presented a snapshot of work performed by Associated Administrators during the Fourth Quarter 2019. The report reflected the processing of 326 accident and sickness claims, 106 appeals, 11,246 participant service calls, the production of 328 COBRA notices, the processing of 90,031 medical claims, and mailings to 33,634 Plan participants.

VII. <u>INVOICES</u>

The Trustees reviewed the lists of invoices for the Active Plan, Retiree Plan and Non-ERISA Plan dated April 16, 2020. It was noted there were no additions, deletions or changes to the lists.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED, that the invoices on the lists dated April 16, 2020 for the Active Plan, Retiree Plan and Non-ERISA Plan are approved for payment.

1. Conifer Transition Invoice

Mr. Jensen presented an invoice for work performed by Associated Administrators related to the transition of Carewise/SHPS to Conifer in the amount of $5,395.25.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to approve payment of the invoice submitted by Associated Administrators for transition services provided due to the transfer of services from Carewise/SHPS to Conifer in the amount of $5,395.25.**

VIII. OTHER FUND BUSINESS

A. Trustee Polls

Mr. Jensen reported that the following polls were unanimously approved by the Trustees:

- Poll approving coverage of Covid-19 testing with no participant cost-sharing, in accordance with applicable law.

- Poll approving a temporary waiver of in-person visit requirements for medical and accident & sickness claims for otherwise covered services performed by teleconference or video conference through December 31, 2020.

- Poll approving hiring SaveOn and PCM for services effective June 1, 2020.

- Poll approving a resolution that a Plan participant's approved paid time off granted by his/her Employer will extend the participant's, and his or her dependents (if any), eligibility under the Plan in continuous segments, and not sporadic periods, in accordance with the Employer's obligation to make contributions to the Plan on the participant's behalf pursuant to the applicable collective bargaining agreement.

B. Giant and Safeway Memorandum of Agreement ("MOA")

Mr. Jensen reported that both Giant and Safeway had concluded bargaining. He outlined the changes contained in the MOA agreements.

1. Ambulance Service

Mr. Jensen reported that he had polled the Trustees regarding approval of an increase in ambulance benefits under Plans X, XX and XXX to $200.00 per claim effective June 1, 2020, and regarding approval of an increase in ambulance benefits under Plan I to the greater of $200 per trip or 80%, as agreed upon by the bargaining parties. He noted that the poll had been unanimously approved by the Trustees.

C. <u>Dependent Audit Proposal</u>

Mr. Jensen presented Associated's proposal to provide an audit of dependent spouse eligibility on behalf of the Fund. He reviewed the Scope of Work contained in the meeting booklet and noted that the timeline indicated proposed mailings commencing June 1, 2020, with multiple outreach procedures to obtain the required information to substantiate the eligibility status of dependent spouses for enrolled Plan I, X, XX, and XXX participants. He said that the fee to perform such service would be $115,500. He stated that Associated had performed dependent audit services for another fund, which resulted in 6% of the enrolled participants being eliminated due to the required documentation not being received.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to hire Associated Administrators to perform an audit of dependent spouse eligibility on behalf of the Fund effective June 1, 2020 at a fee of $115,500.**

D. <u>Cheiron Engagement Proposal</u>

Mr. Jensen presented Cheiron's retainer fee request for 2020. He noted that Cheiron proposed a retainer fee of $56,124 ($4,677.00 per month) with the non-retainer fees ranging from $106 to $510 per hour for 2020.

The Trustees reviewed the engagement request by Cheiron. After discussion and, On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve Cheiron's 2020 engagement proposal as presented.**

E. <u>Group Dental Service ("GDS") - Renewal</u>

Mr. Jensen reviewed correspondence from GDS indicating that there would be no increase in fees for the 2020 Plan year.

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, to approve the Group Dental Service contract renewal as proposed with no increase in fees for the 2020 Plan year.**

F. <u>Miscellaneous Correspondence</u>

1. Madoff Victim Fund

Mr. Jensen reported that he had filed paperwork to the Madoff Victim Fund and reported no additional recoveries were received.

2. Fraudulent Checks

Mr. Jensen reported that three fraudulent VEBA Fund checks had been presented for payment, but were rejected and not paid because the Fund's positive pay program had captured them. Positive pay requires a match between the payee and amount for the check to be cleared.

3. IRS Notice – Form 940 Filing

Mr. Jensen reviewed correspondence sent to the Taxpayer Advocate on behalf of the Fund regarding interest being charged to the Fund related to the Form 940 filing.

4. Beacon Health Options Acquisition

Mr. Jensen reported that Beacon Health Options was acquired by Anthem effective March 2, 2020. He noted that the day-to-day working relationship is expected to remain unchanged.

5. Diabetic Test Strips

Mr. Jensen reported that Safeway had implemented a program to purchase test strips from an outside vendor. He noted that according to the Fund rule, test strips are only covered if purchased at Participating Employers' pharmacy or through a CareFirst participating provider, unless the participant is covered under Plan I, which allows out-of-network benefits.

6. Beacon Health Options Breach

Mr. Jensen noted that he had received correspondence from Beacon Health Options reporting a privacy breach wherein a provider reported that they had received a request for medical records intended for another provider. The recipient provider destroyed the information and the employee that erroneously sent the information was counseled.

7. Medicare Deductibles and Co-Insurance Rates for 2020

Mr. Jensen noted that the Medicare Deductibles and Co-Insurance Rates for 2020 had been approved between Board meetings.

8. Part-Time Dependent Coverage Deduction Rates for 2020

Mr. Jensen reported that the Dependent Coverage Deduction Rates for part-time participants not eligible for dependent coverage for 2020 had been approved between meetings and correspondence regarding those rates had been forwarded to Giant and Safeway.

9. ESI Rebate Check

Mr. Jensen reported that the Fund had received a rebate check from ESI for the second quarter 2019 in the amount of $1,613,800. He further reported that the Fund had received a rebate check from ESI for the third quarter 2019 in the amount of $1,558,550.

10. Kaiser Permanente Changes to Drug Formulary

Mr. Jensen noted that he had received correspondence from Kaiser Permanente regarding changes to their prescription drug formulary. The drugs involved are Potassium Chloride, QVAR, Concerta ER and Lialda.

11. Health Care Cost Containment Corporation ("HCCCC") Membership – 2020

Mr. Jensen reported that payment in the amount of $3,750.00 had been remitted to the HCCCC for renewal of the Fund's membership.

IX. ADOPTION OF COMMITTEE RECOMMENDATIONS

After review of the recommendations made by the Severance, Legal and Scholarship Committees during their meetings,

On Motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED, that the recommendations made by the Severance, Legal and Scholarship Committees are adopted.**

X. NEXT MEETING DATE AND LOCATION

The Trustees decided to hold their next regular Board meeting on July 24, 2020 in Landover, Maryland beginning at 9:30 a.m.

XI. ADJOURNMENT

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

Respectfully submitted,

Mark Federici, Secretary

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