Food Employers Labor Relations Association
And United Food & Commercial Workers
Pension Fund

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

The following Trustees were present:

UNION TRUSTEES

M. Federici - Chairman
D. Blitzstein
T. Hipkins
C. Hoffmann

EMPLOYER TRUSTEES

J. Paradis - Secretary
D. Dosenbach
M. Goble

Also present were:

Y. Anwar - UFCW Local 400
J. Chorpenning - UFCW Local 27
L. DuVall - Associated Administrators, LLC
A. Hanson - UFCW Local 400
J. Hack - UFCW Local 27
J. Harrison - UFCW Local 27
J. Herishen - Calibre CPA Group
N. Hill - UFCW Local 27
D. Jensen - Associated Administrators, LLC
W. Jensen - Associated Administrators, LLC
N. Jacobs - UFCW Local 400
G. Kalwarski - Cheiron
J. Kokolas – Calibre CPA Group
M. Kreps - Groom Law Group
E. Masten - UFCW Local 27
C. McDonough - Investment Performance Services
R. McKnight - Associated Administrators, LLC
C. Murphy - Associated Administrators, LLC
S. Ridore - Safeway, Inc.
S. Sanchez - Slevin & Hart, P.C.
R. Sichel - Investment Performance Services
B. Slevin - Slevin & Hart, P.C.

L. Walsh - Associated Administrators, LLC
M. Wilson - UFCW Local 400
K. Woodrich – Cheiron

I. CALL TO ORDER

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

A. Appointment of Trustee

Mr. Jensen reported that he had received correspondence from UFCW Local 27 removing George Murphy, Jr. as a Trustee and appointing David Blitzstein as a successor Trustee effective April 16, 2020. The Trustees welcomed Mr. Blitzstein to the meeting.

II. MINUTES

The Trustees reviewed the minutes of the regular meeting held on September 25, 2019, 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 25, 2019 are approved as presented.

III. FINANCIAL REPORT

A. PNC Bank

1. Summary of Cash Activity Report

Mr. Jensen presented the Summary of Cash Activity Report for the period January 1, 2019 to December 31, 2019 as provided by PNC. Such report indicated a beginning balance of $3,299,967, receipts of $46,368,590, net transfers from managers of $110,974,301, disbursements of $151,452,732, and earnings of $287,742, resulting in a balance of $9,477,868 as of December 31, 2019.

Mr. Jensen noted that PNC has been asked to file a Class Action on behalf of the Fund in the SEB Investment Management AB v. Endo International plc, et. al. Settlement.

B. Investment Performance Services

The Trustees welcomed Mr. Rich Sichel and Mr. Chris McDonough of Investment Performance Services ("IPS") 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 $95,255,494, net cash flow of ($4,103,277), and net investment change of $378,664, resulting in an ending market value of $91,530,881. The year-to-date performance through February 29, 2020 was 0.7% gross of fees.

2. Asset Allocation

Mr. Sichel reported the Investment Policy that was approved at the September 25, 2019 Board meeting was included with the Master Consulting Report dated December 31, 2019. Mr. Sichel presented an Investment Policy Amendment reflecting the asset allocation changes previously approved by the Board. He stated that with the exception of the Fund's remaining investment in the EnTrust Capital Diversified Fund of $1.9 million, all of the Fund's assets are invested in fixed income (Segal, Bryant & Hamill) or are held in cash (PNC STIF). Mr. Sichel reported that the Fund's investment allocations are within the permitted Investment Policy ranges.

3. Investment Managers

LumX Asset Management (LumX)

Mr. Sichel reported that Fund's investment in LumX was fully redeemed in November 2019.

Segal, Bryant & Hamill ("SBH")

Mr. Sichel reported that in a letter dated March 3, 2020, SBH requested a change to its Investment Policy Addendum with the Fund to allow for a maximum of 75% of the fixed income portfolio to be invested in non-rated bonds and bonds rated below A-. IPS recommended the Trustees approve the manager's request. After discussion,

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

> **RESOLVED, to approve amending SBH's Investment Policy Addendum to increase to 75% the maximum amount of the portfolio that the manager may invest in non-rated bonds and bonds rated below A- .**

4. Segal Marco Advisors

The Trustees discussed the proxy voting services provided by Segal Marco 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 resolution:

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

The Trustees thanked Mr. Sichel and Mr. McDonough for their report and they were excused from the meeting.

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

The Trustees welcomed Mr. Joseph Herishen and Mr. Jim Kokolas of Calibre CPA Group ("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 unqualified and the financial statements were in conformity with generally accepted accounting principles.

Mr. Herishen reported that total assets were $217,367,683 and total liabilities were $1,024,554, producing net assets available for benefits of $216,343,129. 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. Data Breach

Mr. Jim Kokolas reported on the 2019 data breach at Calibre that resulted in the unauthorized disclosure of information relating to Fund participants. Mr. Kokolas reported on the steps taken by

Calibre to investigate, and attempt to mitigate the effects of, the data breach, including performance of a forensic audit, establishment of a participant call center and offers of free credit monitoring to affected participants. In response to the Trustees' request, Mr. Kokolas said that he would provide the Trustees with a summary of the preventive measures that Calibre has put in place to avoid a future breach incident, as well as Calibre's process and procedures for notifying the Fund of data breaches.

The Trustees thanked Mr. Kokolas and he was excused from the meeting.

3. Calibre's Engagement Proposal

Mr. Herishen presented Calibre's engagement proposal and proposed side letter 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 $45,500, reflecting a decrease of $3,500 compared to the prior year. Non-retainer fees would range from $90.00 to $345.00 per hour.

4. Payroll Audit - Safeway

Mr. Herishen reported that Calibre had completed a payroll audit of Safeway for the period January 2014 through December 2017, which revealed a discrepancy of $39,035.17 owed to the Fund. Mr. Herishen reported that the audit findings 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 $45,500.**

IV. ACTUARY'S REPORT

The Trustees welcomed Mr. Gene Kalwarski and Mr. Kevin Woodrich of Cheiron to the meeting.

A. 2019 Actuarial Valuation Results

Mr. Woodrich presented the 2019 Actuarial Valuation Results. Mr. Woodrich reported that there were 10,420 active participants as of January 1, 2019. There were 14,335 terminated vested participants, and 18,539 participants in pay status as of January 1, 2019. The total market value of assets was $235,636,022 as of January 1, 2019 and the total actuarial value of assets was $253,343,071. The actuarial liability was $1,657,107,953, resulting in a funding ratio on an actuarial value of assets basis of 15.3%. Mr. Woodrich reported that the Fund's current projected date of insolvency is February 2021.

B. Annual Certification

Mr. Jensen reported that Cheiron had prepared the Annual Certification of Plan Status as of January 1, 2020, which reflected that the Plan remains in Critical and Declining status.

C. Engagement Proposal

Mr. Woodrich presented Cheiron's retainer fee request for 2020. He stated that that Cheiron proposed a retainer fee of $67,896 ($5,658.00 per month), which represents an increase of approximately 1.6%, with the non-retainer fees ranging from $150 to $510 per hour for 2020.

The Trustees thanked the representatives of Cheiron and they were excused from the meeting.

The Trustees discussed Cheiron's 2020 engagement proposal.

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.

V. ATTORNEY'S REPORT

A. Memoranda of Agreement ("MOA")

Mr. Slevin discussed the agreements reached by the Locals and Giant, Safeway and Acme (collectively, the "Employers"). He then summarized the key terms of a tentative agreement by the Locals and the Employers, the Fund, the MAP Fund, and PBGC (the "Tentative Agreement").

Mr. Slevin explained how the Tentative Agreement, if implemented, would impact the Fund, the MAP Fund, and participants and beneficiaries. He further summarized issues still being negotiated. Finally, Mr. Slevin discussed the goals of the parties regarding the timing of entering into a final agreement and the administrative steps that would have to be taken by the Fund to implement a final agreement.

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

> **RESOLVED, to agree to enter into a final written agreement consistent with the following key terms in the Tentative Agreement: (a) a requirement that the Fund be combined with the MAP Fund, (b) an agreement by PBGC to provide financial assistance to pay guaranteed benefits upon insolvency of the combined fund, (c) an obligation for the Employers to make an aggregate, annual contribution to the combined fund in the amount of $56 million for 25 years, and (d) a release and discharge of any and all claims that could or would arise as a consequence of the Employers' participation in, contributions to, or withdrawal from the Fund, MAP Fund, and the combined fund, including withdrawal liability and mass withdrawal liability.**
>
> **FURTHER RESOLVED, to establish a committee comprised of Mr. Federici, Mr. Hipkins, Mr. Paradis, and Mr. Dosenbach and delegate to such committee the authority to enter into and implement a final written agreement consistent with the key terms of the Tentative Agreement.**

B. Calibre Retainer and Side Letters

Mr. Slevin reported on the Calibre engagement letter and side letter. Mr. Slevin reported on Calibre's actions in connection with the data breach notifications to Fund participants.

The Trustees discussed the breach notification and response rules applicable to other Fund providers. Counsel will review the contractual provisions relating to breach notification and mitigation as the Fund's provider agreements are renewed or updated.

C. Setting Every Community Up for Retirement Enhancement Act ("SECURE" Act)

Ms. Sanchez discussed Slevin & Hart's memorandum dated February 21, 2020 regarding the SECURE Act.

D. Acme Delinquent Contributions

Ms. Sanchez reported on Acme's contribution delinquency. Mr. Jensen noted that Acme continues to contribute to the Fund at incorrect rates, resulting in both overpayments and underpayments to the Fund. Trustee Dosenbach stated that Acme would pay the delinquent contributions with accrued interest through June 15, 2020. He asked Fund co-counsel to draft a settlement agreement to be executed by June 15, 2020.

Ms. Sanchez reported on a proposed delinquency policy amendment relating to habitually delinquent employers.

E. Age 70.5 Required Minimum Distributions

Ms. Sanchez reported on the calculation of pension benefits relating to participants who worked past age 70.5. Mr. Kreps stated that this matter is under review by the Employer Trustees.

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

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

G. Department of Labor ("DOL") Proposed Electronic Disclosure Regulations

Ms. Sanchez reported on the DOL's proposed electronic disclosure regulations.

H. Participant Litigation

Ms. Sanchez reported on the resolution of the litigation filed against the Fund by Participant Fisher-Smith.

I. DOL Investigation

Ms. Sanchez reported on the DOL's ongoing investigation of the Fund.

J. 2019 Rehabilitation Plan ("RP")

Ms. Sanchez reported on the Fund's RP.

K. Fidelity Bond Renewal

Ms. Sanchez discussed the Fund's fidelity bond renewal.

L. Document Request from Albertson's

Ms. Sanchez reported on a document request received by the Fund earlier this year from Albertsons.

VI. ADMINISTRATIVE MANAGER'S REPORT

A. Associated Administrators, LLC ("Associated")

Ms. Laura Walsh stated that as previously announced, Mr. Jensen will retire April 30, 2020. The Associated team to provide administrative services to the Fund 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 a summary of their experience and qualifications is available on the portal.

B. Third Quarter 2019 Report

Mr. Jensen presented the Administrative Manager's report for the Third Quarter 2019, which had been pre-circulated. Such report indicated contribution income of $10,799,336, interest and dividend income of $1,041,177, transfers from assets of $28,000,000, receipt of withdrawal liability payments of $188,208, and miscellaneous income of $256,130, producing total income of $40,284,851 for the quarter. Total expenses were $37,498,527, producing a net operating surplus of $2,786,324. Mr. Jensen noted that contributions were remitted on behalf of 16,262 Plan participants.

Mr. Jensen reviewed the pension applications contained in the Administrative Manager's Third Quarter 2019 Report.

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

> **RESOLVED, that the pension applications contained in the Administrative Manager's Third Quarter 2019 report are approved for payment.**

Mr. Jensen presented a snapshot of Fund work performed by Associated Administrators during the Third Quarter 2019.

C. Fourth Quarter 2019 Report

Mr. Jensen presented the Administrative Manager's report for the Fourth Quarter 2019, which had been pre-circulated. Such report indicated contribution income of $11,055,590, interest and dividend income of $696,487, transfers from assets of $31,205,703, receipt of withdrawal liability payments of $188,208, and miscellaneous income of $54,198, producing total income of $43,200,186 for the quarter. Total expenses were $38,448,791, producing a net operating surplus of $4,751,395. Mr. Jensen noted that contributions were remitted on behalf of 16,256 Plan participants.

Mr. Jensen reviewed the pension applications contained in the Administrative Manager's Fourth Quarter 2019 Report.

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

RESOLVED, that the pension applications contained in the Administrative Manager's Fourth Quarter 2019 report are approved for payment.

Mr. Jensen presented a snapshot of Fund work performed by Associated Administrators during the Fourth Quarter 2019.

VII. INVOICES

The Trustees reviewed the list of invoices dated April 16, 2020. It was noted there were no additions, deletions or changes to the list.

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

RESOLVED, that the invoices on the list dated April 16, 2020 are approved for payment.

VIII. OTHER FUND BUSINESS

A. Miscellaneous Correspondence

1. Madoff Victim Fund

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

2. Visium Asset Management

Mr. Jensen reported that the Visium Asset Management SEC claim had been filed on behalf of the Fund on February 5, 2020.

3. Retroactive Contributions

Mr. Jensen reported that both Giant and Safeway have remitted the retroactive pension contributions due to the Fund as a result of the Employers' contribution rate increases.

4. DOL - Kuster

Mr. Jensen stated that he had been in contact with the DOL regarding Plan participant Kuster, specifically related to the processing and receipt of her pension paperwork.

IX. NEXT MEETING DATE AND LOCATION

After discussion, the Trustees selected July 23, 2020 as their next meeting date in Landover, Maryland, beginning at 1:00 p.m. or via teleconference if needed.

X. ADJOURNMENT

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

Respectfully Submitted,

Jason Paradis, Secretary