Industry And Local 338
Pension Fund

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Minutes of the Meeting of the Board of Trustees

Held on July 16, 2019
via
Conference Call

The following Trustees were present:

UNION TRUSTEES	**EMPLOYER TRUSTEES**
Roberta Dunker	Theresa Bresten
Mickey Smith	Chris Palmer
Barry Russell	

Also present were:

Kristen Barshinger – Associated Administrators, LLC
Pat Blizzard – SEI Institutional Group
Alicia Cochran – Associated Administrators, LLC
Mary Ann Dunleavy – Horizon Actuarial Services, LLC
Dylan Nitta – Horizon Actuarial Services, LLC
Elizabeth O'Leary, Esq. – Kauff McGuire & Margolis LLP

I. CALL TO ORDER

The meeting was called to order at 9:02 a.m.

II. ACTUARY REPORT

Ms. Mary Ann Dunleavy and Mr. Dylan Nitta of Horizon Actuarial Services, LLC reviewed Horizon's report which was previously distributed.

Ms. Dunleavy presented information on the Plan's funded status and the July 1, 2019 PPA zone certification, the Plan's funding levels and zone status certifications between July, 2008 and July, 2018, and updated funding forecasts. She discussed the terms of the Rehabilitation Plan, including the contribution schedules and the amounts included in current collective bargaining agreements (“CBAs”).

Ms. Dunleavy then discussed the 2019 PPA certification and presented the assumptions used for projecting liabilities and assets, noting that the projection of liabilities is based on the July 1, 2018 valuation and the projection of assets is based on the preliminary return of 5.03% for the plan year ended June 30, 2019. Ms. Dunleavy noted that projections for certification purposes may include only future contribution increases that have been negotiated and included in current CBAs.

Ms. Dunleavy explained that, under the baseline scenario, with no change to the assumptions used for the July 1, 2018 valuation and with a level future active population, the Plan will emerge from Critical Status and be certified in the “Green” zone for the July 1, 2019 – June 30, 2020 plan year. Scenarios showing the sensitivity of the projections to alternative investment experience were reviewed.

Ms. Dunleavy discussed the discount rate assumption used for valuing the liabilities of the Plan, and referred to previous discussions regarding potentially lowering the Plan’s investment risk. She noted that, in general, investment professionals have lowered their assumptions for future investment returns over the last several years and that it may be appropriate to lower the discount rate assumption to 7.25%. A funding projection using 7.25% was reviewed. She explained that, under the revised discount rate assumption, the Plan would also be certified “Green” for the 2019-2020 plan year.

Ms. Dunleavy noted that the certification must be issued by September 28, 2019 and noted that once the Plan is certified in the “Green” zone, the Rehabilitation Plan ceases to exist. She stated that contribution increases required by the existing CBAs will go into effect as scheduled, but future CBAs will not be required to include the contribution increases previously anticipated by the Rehabilitation Plan. The Trustees provided guidance on future levels of work, affirming an assumption of steady work hours at the level experienced in the 2018-2019 plan year by active employers.

Ms. Dunleavy presented information on developing a funding policy for the plan after emergence from critical status. Fund Counsel reviewed her memo dated July 15, 2019 which covered historical issues regarding enforcing the funding policy in bargaining, Trust Agreement provisions regarding the Trustees' authority with respect to contributions, and contribution requirement issues following emergence from Critical Status. The Trustees requested that the Fund's professionals provide additional information on setting a funding policy at the next Trustees' meeting.

III. INVESTMENT CONSULTANT REPORT

Mr. Patrick Blizzard of SEI reviewed SEI's report which was previously distributed.

Mr. Blizzard discussed the firm's investment outlook, provided an overview of the capital markets, and answered questions about general market conditions as well as issues specific to the Fund's portfolio.

Mr. Blizzard reported that the Fund's ending market value as of June 30, 2019 was $90,338,451 and the fiscal year-to-date total rate of return is 5.63% compared to 6.13% for the index. Since inception with SEI (01/31/2011), the rate of return is 7.78%, compared to the 7.18% return for the index. The current portfolio allocation as of June 30, 2019 is 10.20% Large Cap Index Fund, 2.70% Small Cap Fund, 18.60% World Equity - US, 14.10% US Equity Factor Allocation Fund, 3.00% Emerging Markets Debt Fund, 7.00% Dynamic Asset Allocation Fund, 10.00% Core Fixed Income Fund, 4.80% Limited Duration Fund, 4.00% High Yield Bond Fund, 3.90% Opportunistic Income Fund, 2.80% Emerging Markets Equity Fund, 2.40% Ultra Short Bond Fund, 3.20% Special Situations Fund CIT, 1.70% Structured Credit Collective Fund, 11.60% Core Property Collective Invest TR, and 0% cash and equivalents.

Mr. Blizzard discussed the Ultra Short Bond Fund. Due to the underperformance in this asset allocation, he recommended eliminating the Ultra Short Bond Fund and using the proceeds to fund the Core Fixed Income Fund.

After a discussion,

MOTION was made, seconded and unanimously adopted to approve the recommendation of SEI to eliminate the Ultra Short Bond Fund and invest the proceeds in the Core Fixed Income Fund.

IV. APPROVAL OF MINUTES

The minutes of the meeting held on April 23, 2019, which were previously distributed, were reviewed.

MOTION was made, seconded and unanimously adopted to approve the minutes of the meeting held on April 23, 2019.

V. ASSOCIATED ADMINISTRATORS, LLC REPORT

A. Cash Operating Statement

Ms. Cochran submitted the Cash Operating Statement from July 1, 2018 through March 31, 2019. The report is attached hereto as Exhibit "A."

B. Disbursement Report

Ms. Cochran referred to the Authorization for Disbursements reports for the months of January, February, and March 2019. The reports are attached hereto as Exhibit "B."

MOTION was made, seconded and unanimously adopted authorizing the disbursements listed in Exhibit "B."

C. Delinquency Report

Ms. Cochran reviewed the report in detail. The report is attached hereto as Exhibit "C." Ms. Cochran discussed changes to Associated's procedures with respect to continuing to bill Employers any late payment charges after the initial demand letters are sent. Ms. O'Leary noted that any amounts that were due more than six (6) years ago are uncollectable.

MOTION was made, seconded and unanimously adopted to write off the following late payments as uncollectable: Suburban Propane ($17.42; 2/13 to 3/13); Friesland Campina ($201.71; 3/13); Paraco Gas Corp. ($26.39; 3/13, 6/13).

Ms. Cochran reported that Associated has billed the College of New Rochelle for $135,431.40 owed to the Pension Fund in retroactive contribution rate increases under its new CBA.

D. Withdrawal Liability

Ms. Cochran reviewed the report in detail. The report is included at the bottom of Exhibit "C."

E. Employer Contribution Rate Report

Ms. Cochran reviewed the report in detail. The report is attached hereto as Exhibit "D."

F. Active Members & Retirees Receiving Benefits

Ms. Cochran referred to the report for the period from January 2019 through March 2019. The report is attached hereto as Exhibit "E."

G. Administrative Manager's Report

Ms. Cochran reviewed the report in detail. The report is attached hereto as Exhibit "F."

H. CulinArt Withdrawal Liability

Ms. Cochran reported that the Notice of Demand letter, Withdrawal Liability calculation and the ERISA Section 4219(a) Request for Information was sent on June 18, 2019. She said the first monthly payment of $15,690 was received on June 28, 2019.

VI. COUNSEL REPORT

Ms. O'Leary referred the Trustees to her memo dated July 15, 2019 and reported on the following withdrawal liability items.

A. CulinArt, Inc.

Ms. O'Leary noted that, as previously reported, the Fund assessed CulinArt, Inc. with withdrawal liability of $3,207,145, and that CulinArt has until on or about September 16, 2019, 90 days from the date it received the notice and demand of withdrawal liability, to request review of the assessment and that, if it does not file a timely request for review, it will have waived any defenses it may have to the assessment. She explained that CulinArt is subject to the 20-year cap on withdrawal liability payments, that its payment schedule requires payment of $15,690 per month for 240 months, with the final payment due on June 1, 2039, and that, if it makes each monthly payment for the duration of the payment schedule, it will have paid a total of $3,765,600.

Ms. O'Leary reported that, following receipt of the withdrawal liability demand, Kevin Wright of Littler, counsel for CulinArt's parent company (Compass Group), inquired about settling this matter for a lump sum payment prior to CulinArt determining whether to request a review of the assessment or to waive any defenses. She stated that she asked Horizon to calculate the present value of the 20-year monthly payment stream. She reviewed with the Trustees a worksheet prepared by Horizon which showed 13 different present value calculations based on interest rates ranging from 0.0% to 7.5%. It was noted that, as shown on the Horizon calculation, the present value number ranges from a high of $3,765,600 at a 0.0% interest rate to $1,966,710 at a 7.50% interest rate. Ms. O'Leary stated that CulinArt's counsel has stated his view that the appropriate interest rate for settlement discussions would be somewhere between 4% or 5% and 7.5%, but has not presented a dollar amount, and that CulinArt has not been provided with the Horizon worksheet. The Trustees and the professionals had a lengthy discussion of settlement considerations and the appropriate discount rate.

After a discussion,

MOTION was made, seconded and unanimously adopted to authorize Fund counsel to advise CulinArt's counsel that the Trustees are amenable to applying a 3% discount rate which equates to a lump sum payment of $2,837,978.

Ms. O'Leary discussed with the Trustees the request for review process and advised that she will update the Trustees if CulinArt files a request for review. Ms. Dunleavy and Ms. O'Leary briefly discussed the pending Second Circuit appeal in the New York Times case which, among other things, involves a challenge to the Segal Blend, and noted that a decision in that case can be expected to influence whether an employer challenges a withdrawal liability assessment in which the Segal Blend is used. She also stated that, based on CulinArt's response to the Trustees' offer, she may ask SEI to analyze the impact on the Fund of various settlement scenarios compared to the20-year payment stream.

B. College of New Rochelle

Ms. O'Leary referred to the upcoming anticipated withdrawal of the College of New Rochelle ("CNR"). She noted that the Trust Agreement permits the Trustees to determine that an Employer is in default on withdrawal liability if, among other factors, a petition is filed in bankruptcy court or upon the occurrence of any event or circumstance indicating that the Employer will be unable to pay its future withdrawal liability. She stated that, upon default, the Trustees may require immediate payment of all withdrawal liability. Ms. O'Leary recommended that the Trustees determine that, based on the anticipated bankruptcy filing and other reports of inability to pay, CNR will be in default upon its withdrawal and that the Trustees should demand the full amount due.

After a discussion,

MOTION was made, seconded and unanimously adopted to determine that CNR shall be in default of its withdrawal liability obligations and to demand the full amount due rather than installment payments.

VII. NEXT MEETING DATE/ADJOURNMENT

A regular meeting of the Board of Trustees is scheduled for Tuesday, October 15, 2019 at 9:15 a.m. via conference call. With no further business to come before the Board, the meeting was adjourned at 11:27 a.m.

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Union Trustee Employer Trustee

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Union Trustee Employer Trustee

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Union Trustee

Exhibits:

A – Cash Operating Statement

B – Authorization for Disbursements

C – Delinquency and Withdrawal Liability Report

D – Employer Contribution Report

E – Active Members & Retirees Receiving Benefits Report

F – Administrative Manager’s Report