# United Food and Commercial Workers Unions and Participating Employers Pension Fund

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## MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF THE UFCW UNIONS AND PARTICIPATING EMPLOYERS PENSION FUND OCTOBER 10, 2017 LANDOVER, MARYLAND

The following Trustees were present:

**UNION TRUSTEES**
G. Murphy – Acting Secretary
Y. Anwar
M. Federici
C. Hoffmann

**EMPLOYER TRUSTEE**
D. Gwin - Chairperson
J. Born
B. Seehafer

Also present were:

M. Buckberg - Withum Smith & Brown
H. Burton - Morgan, Lewis, & Bockius LLP
D. Clutts - Associated Administrators, LLC
A. Hanson - UFCW Local 400
P. Hardcastle - Cheiron
T. Hipkins - UFCW Local 27
J. Ianniello - Associated Administrators, LLC
W. Jensen - Associated Administrators, LLC
A. Leech - Withum Smith & Brown
J. Mink - Investment Performance Services, LLC
R. Murray - Cheiron
S. Sanchez - Slevin & Hart, P.C.
B. Slevin - Slevin & Hart, P.C.
L. Walsh - Associated Administrators, LLC
M. Wilson - UFCW Local 400

## I. CALL TO ORDER

A quorum being present, Chairperson Gwin called the meeting to order. Mr. Jensen noted that Secretary Chorpenning was unable to attend the meeting and provided his proxy to Trustee Murphy to act in all matters coming before the Trustees.

## II. MINUTES

The Trustees reviewed the minutes of the regular meeting held on April 19, 2017, and the minutes of the Rehabilitation Plan Sub-Committee meeting held on June 14, 2017, 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 April 19, 2017 and the Rehabilitation Plan Sub-Committee meeting held on June 14, 2017 are approved as presented.**

## III. FINANCIAL REPORT

### A. PNC Report

Mr. Jensen presented the PNC Summary of Activity report for the period January 1, 2017 to June 30, 2017. Such report indicated a beginning market value of $108,041,609, receipts of $4,578,575, disbursements of $6,254,209, and investment returns of $7,398,048, producing an ending market value of $113,764,024 as of June 30, 2017.

### B. Investment Performance Services ("IPS")

The Trustees welcomed Ms. Jennifer Mink of IPS to the meeting.

#### 1. Master Consulting Report

Ms. Mink distributed the Master Consulting Report for the period ended June 30, 2017. Such report indicated a market value of assets of $113,764,025. The total portfolio had a 3.4% return gross of fees in the second quarter 2017, and a 7.8% return gross of fees for year to date 2017.

## 2. Manager's Review

Ms. Mink reviewed each investment manager's performance. Ms. Mink said that the current investment contract with EnTrust Special Opportunities Fund III is a self-liquidating investment that has returned 9.7% net of fees since inception and has begun the process of liquidation. $800,000 of the Pension Fund's capital commitment to the EnTrust Fund III has not yet been called by Entrust. Ms. Mink recommended that the Fund invest $5 million in the Entrust Permal Special Opportunities Fund IV, to maintain the Fund's opportunistic allocation. After discussion,

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

**RESOLVED to invest $5 million in the Entrust Permal Special Opportunities Fund IV.**

Ms. Mink noted that the performance of the Fund's large cap domestic equity managers, Winslow Large Cap Growth Fund ("Winslow") and Westfield Capital Management Fund ("Westfield"), had improved and therefore she was revising her recommendation made at the prior Board meeting to terminate both Winslow and Westfield and invest the proceeds in the Northern Trust Collective Russell 1000 Growth Index Fund, and she is now recommending that the Fund terminate only Winslow and move those proceeds to the Norther Trust Index Fund.

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

**RESOLVED to terminate only Winslow and invest the proceeds in the Northern Trust Collective Russell 1000 Growth Index Fund subject to execution of an acceptable contract.**

Ms. Mink presented an Addendum to the Pension Fund's Investment Policy to reflect the Trustees' decision to invest in the Northern Trust Russell 1000 Growth Index Fund.

Mr. Jensen presented for signature an amendment to the Pension Fund's Investment Policy, reflecting the Trustees' previous decision to change the target rate of return to 7.75% to match the actuary's change in assumption. It was executed.

Mr. Jensen reported that the Fund Office received notification that ConvergEx had been acquired by the Cowen Group effective June 1, 2017. In the correspondence, ConvergEx said there would be no impact to existing clients. Ms. Mink reported that IPS was reviewing this transaction and would provide comments to the Fund shortly.

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

> **RESOLVED to delegate to the Chairperson and Secretary the authority to take any necessary action relating to Cowen's acquisition of ConvergEx.**

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

## IV. AUDITOR'S REPORT

The Trustees welcomed Mr. Mark Buckberg and Mr. Albert Leech of Withum Smith & Brown to the meeting. Mr. Buckberg informed the Trustees that Bond Beebe had merged into Withum Smith and Brown effective August 31, 2017. However, the audit team and auditing services to the Fund will remain the same.

### A. 2016 Audited Financial Statements

Mr. Leech reviewed the audited financial statements for the year ended December 31, 2016, reflecting an unmodified opinion, which is the highest level of opinion available. Mr. Buckberg reported that net assets available for benefits increased from $104,267,676 as of January 1, 2016 to $112,684,689 as of December 31, 2016. He reviewed the notes to the financial statements. Note 12, "Newly Adopted Accounting Standards" is a new standard issued by the Financial Accounting Standards Board regarding disclosures of assets.

The Trustees thanked Mr. Buckberg and Mr. Leach for their report and excused them from the meeting.

## V. ACTUARY'S REPORT

The Trustees welcomed Mr. Peter Hardcastle and Mr. Robert Murray from Cheiron to the meeting.

### A. Draft Valuation and Contribution Credits

Mr. Hardcastle reviewed the draft valuation results as of January 1, 2017. The draft actuarial valuation reflected a 6.9% increase in the market value of assets, and a 3.4% increase in the actuarial value of assets. Mr. Hardcastle discussed the Fund's practice of including contribution credits received during the first eight months of the following year as contributions during the current year, for purposes of the Fund valuation. Consistent with this practice, the draft valuation results as of January 1, 2017 include eight months of contributions received by the Fund in 2017. Mr. Hardcastle reported on why this practice was first instituted but is no longer necessary to avoid a funding standard account deficiency. After discussion,

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

> **RESOLVED to end the practice of including contribution credits received during the first eight months of the following year as contributions during the current year for reporting purposes, effective with the January 1, 2017 actuarial valuation.**

### B. Shoppers Food ("Shoppers") Collective Bargaining Agreement

Mr. Hardcastle reviewed the Shoppers collective bargaining agreement's pension contribution increase, effective July 30, 2017. All Shoppers contribution rates have been combined to a composite rate of $1.15 per hour, increasing to $1.25 effective July 30, 2017, with additional increases of 10 cents per hour on July 1, 2018 and June 30, 2019.

### C. Rehabilitation Plan

Mr. Hardcastle stated that if the Trustees amended the Fund's Rehabilitation Plan to include as a new schedule the contribution rate increases reflected in the new Shoppers

collective bargaining agreement, the Fund still would be projected to emerge from critical status at a future date and avoid insolvency. After discussion,

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

> **RESOLVED to amend the Rehabilitation Plan to create a new schedule applicable to Shoppers, reflecting the contribution rate increases in the Shoppers collective bargaining agreement.**

The Trustees discussed the impact of this Rehabilitation Plan amendment on the other contributing employers. Mr. Hardcastle reported that the Shoppers 2017 contribution rate increase is equivalent to an 8.7% increase, which would need to be actuarially adjusted for the Fund's other employers, based on the effective date of their increase. The Trustees agreed to update the Rehabilitation Plan to reflect a new contribution schedule for the other participating employers, requiring contribution rate increases equivalent to those reflected in the Shoppers schedule. The Trustees also agreed to use the same method as used by the actuary in prior years to determine the actuarial equivalency of the rate increases. The Trustees decided to reconvene the Rehabilitation Plan Sub-Committee to update the Rehabilitation Plan. The Trustees appointed Chairperson Gwin and Secretary Chorpenning to the Rehabilitation Plan Sub-Committee. After discussion,

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

> **RESOLVED to delegate to the Rehabilitation Plan Sub-Committee the authority to adopt the Fund's 2017 Rehabilitation Plan update.**

The Trustees thanked Mr. Hardcastle and Mr. Murray for their report and excused them from the meeting.

## VI. ATTORNEY'S REPORT

### A. Post Normal Retirement Date Pensions

Mr. Slevin reported on the Plan rules regarding the commencement of pensions after normal retirement age.

**B. Fiduciary Rule**

Mr. Slevin reported on the U.S. Department of Labor's final fiduciary rule.

**C. Halo Case**

Mr. Slevin reported on the Second Circuit Case of *Halo v. Yale Health Plan.*

**D. Withdrawal Liability**

Mr. Slevin reported on the Fund's withdrawal liability assessments related to the following employers: Magruder, Bestway, Delmarva and G & G Eddies.

**E. Magruder Lawsuit**

Mr. Slevin reported on the Fund's pending litigation against Magruder and a Magruder controlled group member.

**F. Bestway Delinquency**

Mr. Slevin reported on the Bestway contribution delinquency.

**G. Disability Pension Regulations**

Mr. Slevin reported on the Department of Labor's final disability claims regulations.

**H. Plan Amendment**

Mr. Slevin presented Plan Amendment 3. It was executed.

**I. Cheiron Engagement Letter**

Mr. Slevin presented Amendment 6 to the Cheiron Consulting Services Agreement. It was executed.

**J. Summary Plan Description ("SPD")**

Mr. Slevin reported on the draft SPD restatement.

## VII. ADMINISTRATIVE MANAGER'S REPORT

Ms. Clutts reviewed the Administrative Manager's Reports for the first and second quarters 2017. The second quarter Administrative Manager's Report indicated total income of

$2,186,636 and total expenses of $3,296,251, producing a net deficit of $1,109,615. Ms. Clutts reported that contributions were remitted on behalf of 3,359 Plan participants. Ms. Clutts noted that page 34 of the Administrative Manager's Report is a report requested by the Trustees titled "Stipend Income & Expenses" relating to the Social Security supplemental benefit payable under the Plan. The report indicated income of $67,050 and expenses of $67,443 relating to 52 Plan participants.

Ms. Clutts reviewed a list of pension applications submitted for approval during the first and second quarters of 2017.

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 first and second quarter 2017 report are approved for payment.**

## VIII. INVOICES

Ms. Clutts presented a list of invoices dated October 10, 2017. She 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 October 10, 2017 are approved for payment.**

## IX. OTHER FUND BUSINESS

Ms. Clutts reported the following:

### A. Shoppers Food & Pharmacy Memorandum of Agreement ("MOA")

The Fund Office received a Memorandum of Agreement dated August 25, 2017 between Shoppers Food & Pharmacy and UFCW Locals 400 and 27. Page 3 of the Memorandum

of Agreement, Item #7, details the negotiated change in Pension contributions for the Shoppers Food and Pharmacy participants, effective retroactively to July 30, 2017.

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

**RESOLVED to approve the MOA between Shoppers Food & Pharmacy and UFCW Locals 400 and 27.**

**B. U.S. Department of Labor's ERISA Advisory Council Hearing**

On June 6, 2017, Linda DuVall, Chief Business Officer of Associated Administrators and a member of the Society of Professional Benefit Administrators was a panelist testifying before the Department of Labor and its ERISA Advisory Council. They discussed governmental regulations related to disclosure requirements, and recommendations to make them less onerous and more meaningful.

**C. Convergex**

A payment of $376 was received from Convergex on April 21, 2017 for commission rebate recaptures for the first quarter 2017.

**D. Department of Labor ("DOL")**

The Fund Office continues to receive numerous inquiries from the DOL regarding deferred vested participants. The Fund Office is responding in a timely manner to all DOL inquiries, coordinating with Fund counsel as needed.

**E. Fiduciary Liability Insurance**

The Fund's Fiduciary Liability insurance was renewed on April 17, 2017 through Segal Select with Chubb Insurance in the amount of $30,279. Trustees were reminded about their individual recourse premium payment of $25 that is due.

## X. NEXT MEETING DATE AND LOCATIONS

After discussion, the Trustees selected the following date and meeting location:

December 6, 2017 - 9:30 a.m. – Landover, Maryland

## XI. ADJOURNMENT

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

Respectfully submitted,

George Murphy, Acting Secretary

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