NAME: **SS#:**

UFCW & FELRA Severance Plan

TABLED APPEAL

EMPLOYER: Giant
DATE OF HIRE: November 7, 1983

LOCAL: 400
STATUS: **Last Day Worked, 3-8-2011**
Benefits Terminated, 11-30-2011
COBRA, effective 12-1-2011

ISSUE: Late Application #S13/110-7213

FUND RULE:
"Severance from Service Date
(a) Effective September 28, 2008, if you are an Employee Covered by a Collective Bargaining Agreement, your Severance From Service Date is the earlier of: (1) the date your employment relationship with an Employer terminates, or (2) the first anniversary of the first date of your absence from employment with any employer for any other reason, including, but not limited to disability, sickness, or leave of absence.

Whether a termination of employment has occurred will be determined by the Fund based on the facts and circumstances and in accordance with federal law. "
(UFCW & FELRA Severance Plan SPD, Page 11)

"If your Severance From Service Date occurs on or after September 28, 2008, you will receive your benefit no earlier than four months after your Severance From Service Date, and your benefit must be paid no later than the latest of:
1) The last day of the calendar year in which the four-month waiting period expires; or
2) The 15th day of the third calendar month following the expiration of the four-month waiting period."
(UFCW & FELRA Severance Plan SPD, Page 25)

"If you do not timely submit an application for your Payable Severance Benefit, no benefit will be payable to you by the Fund. Further, your right to receive your Payable Severance Benefit under the Plan will be forfeited if the benefit is not paid by the deadline as described on Page 25.
(UFCW & FELRA Severance Plan SPD, Page 27)

SUMMARY:

Last Day Worked:	March 8, 2011
Deadline for Collection of Severance:	December 31, 2012
Completed Severance Application Received:	May 20, 2013
Denial of Severance Letter Mailed:	August 20, 2013
Appeal Received:	September 6, 2013

The **participant** is appealing the denial of a Severance benefit. It was noted that a Severance benefit was denied because it was not paid by the deadline as required under the rules of the Fund. The participant states that she was diagnosed with a malignant neoplasm on March 10, 2011 and was unable to work due to complications of her condition. The participant further states she had every intention of returning to work but was unable. The participant states that she inquired on several occasions about a Severance benefit "as a means of support" but was told "it was not a possibility until [she] was officially terminated in the system" and "continued to be told that [her] Severance was secure while [she] was still active". The participant requested a Severance application and after it was submitted, she called to check the status. At that time, she was told that she was still considered an active employee by Giant and "was advised to send a letter" to Human Resources declaring her resignation in order for her Severance application to be processed.

Fund records indicate the participant suffered a disability on March 10, 2011 and collected Accident and Sickness benefits for the period from March 10, 2011 through the benefit exhaustion date of November 16, 2011. The participant lost Fund eligibility on November 30, 2011 when she did not return to work. A HIPAA statement was mailed on November 29, 2011 and a COBRA notice was mailed on December 2, 2011. The participant elected COBRA coverage at that time.

Fund records further indicate the participant called the Fund office on June 29, 2012 regarding Severance benefits and on May 9, 2013 to request a Severance application. A Severance application was mailed to her on May 10, 2013. A completed Severance application was received on May 20, 2013. The participant called the Fund office again regarding her Severance application on June 27, 2013, July 29, 2013, and July 31, 2013. She was advised that her termination date was needed from her employer. The participant's employer notified the Fund office on August 2, 2013 that she was on a "medical leave of absence" through May 10, 2013 and her employment terminated on that day (May 10, 2013). After a review of the participant's file, the Fund office mailed a letter on August 20, 2013, advising that a Severance benefit was denied because a completed Severance application was received late and a Severance benefit was not able to be paid within the guidelines of the Plan (by December 31, 2012, based on her last day worked of March 8, 2011).

ACTION: **Approved** ☐ **Denied** ☐ **Tabled** ☐
COMMENTS:

This appeal was presented at the appeals subcommittee meeting on September 17, 2013. The Union Trustee approved the appeal. The Employer Trustees denied the appeal. After discussion, the trustees agreed to present the appeal to the Full Board of Trustees at their next meeting on December 19, 2013.