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 AUGUST 14, 2014 IN HANOVER, MARYLAND

The following Trustees were present:

UNION TRUSTEES
J. Chorpenning
M. Federici
J. Slivosky
C. Wiszynski

EMPLOYER TRUSTEES
D. Gwin - Chairperson
S. Habermehl
S. Loeffler

Also present were:

H. Burton – Morgan, Lewis, & Bockius LLP
M. Christle - Kroger
L. Duvall – Associated Administrators, LLC
M. Eubank – UFCW Local 27
M. Harris – UFCW Local 400
M. Herwig – PNC Bank
T. Hipkins – UFCW Local 27
J. Iannellio – Associated Administrators, LLC
W. Jensen – Associated Administrators, LLC
C. Mietlicki – Cheiron
J. Mink – Investment Performance Services
B. Slevin – Slevin & Hart, P.C.

I. CALL TO ORDER

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

II. RESIGNATION/APPOINTMENT OF TRUSTEE

Mr. Jensen reported that he had received correspondence from Duane Whitney resigning his position as a Trustee effective July 18, 2014. He further noted that he had received correspondence from SuperValu appointing William Seehafer as Mr. Whitney's replacement effective the same date. The Trustees welcomed Mr. Seehafer back to the Board. Mr. Slevin discussed the procedures under the Trust.

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

> **RESOLVED to accept Mr. Whitney's resignation with less than thirty days advance notice.**

The Employer Trustees agreed to the appointment of Mr. Seehafer as a Trustee.

III. MINUTES

The Trustees reviewed the minutes of the last regular meetings held on December 12, 2013 and March 21, 2014 and the appeals committee minutes of April 24, 2014, which had been previously circulated.

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

> **RESOLVED that the minutes of the regular meetings held on December 12, 2013 and March 21, 2014 and the appeals committee meeting held on April 24, 2014 were approved as presented.**

IV. FINANCIAL REPORT

A. PNC Bank

The Trustees welcomed Mr. Michael Herwig of PNC Bank to the meeting. He presented the Summary of Activity Report for the period January 1, 2014 through June 30, 2014. Such report indicated a beginning balance of $100,686,776, receipts of $4,408,460, expenses of $5,483,048, and investment return of $5,047,272, producing a balance of $104,659,460 as of June 30, 2014.

B. Investment Performance Services

The Trustees welcomed Ms. Jennifer Mink of IPS to the meeting. She presented the investment performance report as of June 30, 2014. Such report indicated a market value of assets of $104,659,460 as of June 30, 2014. The portfolio had a 3.7% return in the second quarter 2014 and the year-to-date performance of 5.3%. Ms. Mink reviewed the asset allocation and performance of each of the individual managers.

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

V. ACTUARY'S REPORT

The Trustees welcomed Mr. Chris Mietlicki of Cheiron to the meeting. Mr. Mietlicki noted that the January 1, 2014 valuation was in process.

A. Fresh and Green Benefit Multiplier

Mr. Mietlicki reviewed options available for the benefit multiplier for the Fresh and Green employees. He noted that the employer had closed after paying contributions of $80 per full time employee and $40 per part time employees.

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

> **RESOLVED to approve the benefit multiplier for $27.80 for each year of full time service and $13.19 for each year of part time service for the Fresh and Green's employees.**

B. Rehabilitation Plan

Mr. Seehafer requested an update on the status of the Rehabilitation Plan. Mr. Mietlicki noted that the Fund was not making scheduled progress at the present time, based on the contribution rates that had been negotiated in accord with the 2010 Rehabilitation Plan. After discussion, the Trustees appointed a Rehabilitation Plan committee consisting of Mr. Seehafer, Mr. Habermehl, Mr. Federici and Mr. Murphy. The Trustees described the scenarios they wanted modeled by Cheiron. The Committee was authorized to make recommendations to the full Board of Trustees on amendments to the Rehabilitation Plan and Schedules after reviewing recommendations from the Actuary.

A conference call for the Committee members was scheduled for September 11, 2014 at 2:00 p.m. with reports being available to all the Trustees.

C. Delmarva

Trustee Murphy said that Delmarva UFCW Fund office would be ceasing participation as of October 1, 2014. Its withdrawal liability may be de minimus.

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

VI. ATTORNEY'S REPORT

A. Appeals Committee – Named Fiduciaries

Mr. Slevin discussed the status of the appeals committee.

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

> **RESOLVED to designate the appeals committee as named fiduciary for the purpose of deciding benefit appeals.**

B. Same Sex Marriage Act

Mr. Slevin discussed the new guidance on implementation of the Windsor case. The Board agreed to take no further action.

C. Potential Transfer of Kroger Assets and Liabilities to the Consolidated UFCW Fund

Mr. Slevin discussed Kroger's potential withdrawal from this Fund and the possible transfer of assets and liabilities to the UFCW Consolidated Fund.

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

> **RESOLVED to provide advance notice to the Pension Benefit Guaranty Corp of the potential transfer of assets and liabilities on the understanding that the Board is not authorizing the transfer at this time. It was further RESOLVED to waive Slevin & Hart's conflict of interest in discussions with this Fund and the UFCW Consolidated Fund, on the understanding that Morgan, Lewis & Bockius will be relied on by the Board to represent this Fund in such matters.**

Mr. Slevin outlined a number of issues related to the potential transfer of assets and liabilities to the UFCW Consolidated Plan. The same committee appointed regarding the Rehabilitation Plan will review this matter and make a recommendation to the Board of Trustees.

D. Statute of Limitations

Mr. Slevin discussed the Heimshoff Supreme Court case. The Board agreed to make no change in the Plan Statute of Limitations.

E. Cycle D Plan Restatement Filing

Mr. Slevin discussed filing with the Internal Revenue Service ("IRS") for a determination of tax qualification. After discussion,

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

> **RESOLVED to appoint a committee of Chairman and Secretary authorized to approve the tax determination filing with the IRS.**

F. PNC Agreement

Mr. Slevin discussed the PNC Agreement.

G. Chartwell Amendment

Mr. Slevin reviewed the Chartwell Amendment. After discussion,

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

> **RESOLVED to approve the proposed amendment aggregating assets with the FELRA and UFCW Pension Fund for fee purposes in the Chartwell contract.**

H. Syms Withdrawal Liability

Mr. Slevin reported that Syms had paid $536,000, the entire amount of the withdrawal liability due to the Fund.

I. A.M. Briggs

Mr. Slevin reported that A.M. Briggs had paid part of its withdrawal liability in a lump sum. It requested that the Fund consider such payment as payment in full of its withdrawal liability and Chairman and Secretary rejected A.M. Briggs' request. The company had submitted a request for review.

J. WEPCO Withdrawal

Mr. Slevin discussed the offer of a settlement of withdrawal liability from WEPCO.

K. Entrust Amendment

Mr. Slevin discussed the amended updated offering memorandum for the Entrust investment.

L. Magruders

Mr. Slevin reported on the status of the Fund's claim against Magruders for collection of withdrawal liability.

M. Benefit Reduction Notice

Mr. Slevin reported on the drafting of notices to participants of Bestway, Delmarva and Eddies St. Paul and Mr. Jensen advised that they had been sent.

N. Bestway

Mr. Slevin advised of issues relating to Bestway's collective bargaining agreement and participation. The Trustees requested a report on the payroll audit status of Bestway – Piney Branch.

O. Giant Withdrawal Liability

Mr. Slevin reported on the status of the Giant withdrawal liability calculations and outstanding credit request.

P. Non-Discrimination Testing

Mr. Slevin discussed non-discrimination testing and Mr. Jensen advised that the Fund office had sent out the non-discrimination forms to the Participating Employers and Unions.

VII. ADMINISTRATIVE MANAGER'S REPORT

Mr. Jensen reviewed the Administrative Manager's report for the First Quarter 2014. Such report indicated total income of $1,770,677, total expenses of $2,758,232, producing a net deficit of $987,565. Mr. Jensen said that contributions were remitted on behalf of 6,251 plan participants.

Mr. Jensen reviewed the list of pension applications.

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 quarter 2014 report were approved for payment.

VIII. INVOICES

Mr. Jensen presented a list of invoices dated August 14, 2014. He 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 list of invoices dated August 14, 2014 was approved for payment.

IX. OTHER FUND BUSINESS

A. UFCW Local 400 – Erroneous Contributions

Mr. Jensen reported that contributions had been made in error to the FELRA and UFCW Pension Fund on behalf of a Local 400 employee, resulting in contributions due to this Fund from the FELRA Fund in the amount of $1,942.27 and a resulting credit against future contributions to UFCW Local 400 of $2,116.09 after the FELRA and UFCW Pension Fund transfers the mistaken contributions to this Fund. Mr. Jensen said that the FELRA and UFCW Pension Fund had already approved such transfer.

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

RESOLVED to approve the transfer and credit due to Local 400.

The Trustees from UFCW Local 400 abstained from voting on the motion.

B. Credit Request – UFCW Local 400

Mr. Jensen reported that UFCW Local 400 had submitted a list of mistaken contributions made to this Fund that should have been made on behalf of their employees to the

UFCW National Pension Fund totaling $49,991.14. Local 400 is requesting a credit against future contributions for such mistaken contributions.

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

> **RESOLVED to approve the credit against future contributions to Local 400.**

The Trustees from UFCW Local 400 abstained from voting on the motion.

C. <u>Miscellaneous Correspondence</u>

1. <u>ConvergEx Rebate</u>

Mr. Jensen reported that the Fund had received a rebate from ConvergEx for the Fund's commission recapture service in the amount of $331.86 for the Second Quarter 2014.

2. <u>Department of Labor Request</u>

Mr. Jensen said that he had responded to the Department of Labor request for information concerning the benefit entitlement of a former plan participant.

3. <u>Annual Funding Notice</u>

Mr. Jensen reported that he had sent copies of the Annual Funding Notice to the CEO of Commodore Corporation at his request.

4. <u>Payroll Audits</u>

a. <u>G & G Eddies</u>

Mr. Jensen reported that a payroll audit had been conducted at G & G Eddies and that a deficiency of $446.60 had been revealed. Payment had been made by G & G Eddies on May 3, 2014.

b. <u>UFCW Local 400</u>

Mr. Jensen reported that a payroll audit had been conducted at UFCW Local 400 and that no irreconcilable discrepancies had been revealed for the period January 2010 – February 2012.

c. WEPCO

Mr. Jensen reported that the Fund had received $168.08 as a result of a payroll audit of WEPCO for the period January 2010 – February 2012.

d. Kel-Co

Mr. Jensen reported that a payroll audit had been conducted at Kel-Co for the period January 2010 – February 2012 and that a discrepancy of $28.16 had been revealed. Payment had been made by Kel-Co on April 29, 2014.

X. NEXT MEETING DATE AND LOCATION

The Trustees noted that the next meeting was scheduled for November 13, 2014 at the Hotel at Arundel Preserve.

XI. ADJOURNMENT

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

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Respectfully submitted,

George Murphy, Jr., Secretary