Industry and Local 338
Welfare Fund
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Minutes of the Meeting of the Board of Trustees

Held on June 28, 2023
Via
WebEx

The following Trustees were present:

UNION TRUSTEES	EMPLOYER TRUSTEE
Dan Maldonado	Chris Palmer
Lori Polesel	

Also present were:

Pat Blizzard – SEI Institutional Group
Alicia Cochran – Associated Administrators, LLC
Rachel Grant – Associated Administrators, LLC
Elizabeth O'Leary, Esq. – Kauff McGuire & Margolis LLP
John Urbank – The Segal Company

I. CALL TO ORDER

The meeting was called to order at 12:06 p.m.

II. INVESTMENT CONSULTANT REPORT

Mr. Patrick Blizzard of SEI referred the Trustees to SEI's report. He provided commentary on the market, noting the market volatility during the 2022 Calendar Year.

Mr. Blizzard reported that the Fund's market value of assets was $6,653,034 as of May 31, 2023, and its fiscal year-to-date rate of return is 2.69%, compared to the 3.15% return for the index. Mr. Blizzard reviewed the Fund's asset allocation: 8.6% World Equity Ex-US

Fund, 6.0% US Equity Factor Allocation Fund, 6.1% Large Cap Index Fund, 16.1% Core Fixed Income Fund, 41.4% Limited Duration Fund, 3.0% High Yield Bond Fund, 8.0% Real Return Fund, 3.0% Emerging Markets Debt Fund, and 7.8% Multi Asset Real Return Fund. He then reported on the performance of each asset class.

After questions and answers, the Trustees thanked Mr. Blizzard for his report.

III. APPROVAL OF MINUTES

The minutes of the meeting held on March 17, 2023 were reviewed.

MOTION was made, seconded and unanimously adopted to approve the minutes of the meeting held on March 17, 2023.

IV. ASSOCIATED ADMINISTRATORS, LLC REPORT

A. Cash Operating Statement

Ms. Cochran reviewed the Cash Operating Statement from July 1, 2022 through June 30, 2023. The report is attached hereto as Exhibit "A."

B. Claims Paid Detail Report

Ms. Cochran reviewed a report detailing medical claims paid by type of benefit from July 1, 2022 through December 31, 2022. The report showed paid claims by the following categories: anesthesia, COVID-19 testing, hospital, laboratory and x-ray, medical, surgery, and COVID-19 vaccines. The report also indicated claims paid in network and out-of-network ("OON"). The report is attached hereto as Exhibit "B."

C. Disbursement Report

Ms. Cochran referred to the Authorization for Disbursements reports for October, November, and December 2022. The reports are attached hereto as Exhibit "C."

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

D. Delinquency Report

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

E. Withdrawal Liability

Ms. Cochran reviewed the report showing the status of withdrawal liability payments owed to the Pension Fund by the Welfare Fund in connection with the 2013 closing of the former Fund Office. The report is included at the bottom of Exhibit "D."

F. Employer Contribution Rate Report

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

G. Active Members and COBRA Participants Receiving Benefits

Ms. Cochran referred to the report for the period from January 2022 through December 2022. The report is attached hereto as Exhibit "F."

H. Summary Annual Report ("SAR")

Ms. Cochran reported that the SAR for Plan Year ending June 30, 2022 was mailed to participants on May 24, 2023.

I. Orange County Transit Collective Bargaining Agreement ("CBA")

Ms. Cochran reported that the new CBA was received from Orange County Transit with a ratification date of February 24, 2023. She said that the CBA is for period September 1, 2022 through August 31, 2027 and that it contains language related to the Opt-Out provision with ancillary benefits.

J. **Consolidated Appropriations Act - Prescription Drug and Health Care Spending Report**

Ms. Cochran reported that Associated submitted the medical portion to the Centers for Medicare and Medicaid Services ("CMS") on May 26, 2023. She stated that Express Scripts confirmed the prescription reporting was also submitted prior to the deadline.

K. **Mondelez Payroll Audit**

Ms. Cochran reported receipt of payment in the amount of $32,649.61 for the payroll audit for the period from January 1, 2019 through December 31, 2021.

L. **First Student Credit Request**

Ms. Cochran reported that First Student requested a credit of $1,474.00 for 5 weeks of contributions paid in error for a termed employee. She stated that Associated confirmed that the contributions were paid in error. Ms. O'Leary noted that the employer has an outstanding liability of $11.20 to the Fund for late fees.

MOTION was made, seconded and unanimously adopted to approve the credit request of $1,474.00 minus $11.20, which is owed in late fees, for a total approved credit of $1,462.80.

M. **Patient- Centered Outcomes Research Institute ("PCORI") Fee**

Ms. Cochran stated that the PCORI fee, imposed by the Affordable Care Act for self-insured group plans, must be filed by July 31, 2023. She explained that the fee is $2.79 multiplied by the average number of lives covered under the Plan for that Plan year. Ms. Cochran said that the Plan selected the snapshot method for the prior filings to determine the average number of lives covered under the Plan. Ms. Cochran noted that Schultheis & Panettieri, LLP ("S&P") files the Form 720, which is a tax form associated with the fee.

After discussion,

MOTION was made, seconded and unanimously adopted to approve the snapshot method and to engage the auditor to prepare the Form 720.

N. <u>Subrogation</u>

Ms. Cochran reported that, according to Anthem, there were no open cases to report.

O. <u>Westchester Local 860 Payroll Audit</u>

Ms. O'Leary stated that she sent a demand letter and follow up email correspondence to the employer regarding the payroll audit findings for the period from January 1, 2019 through December 31, 2021. She noted that the Employer sent an email to Associated on June 27, 2023 stating that the amounts have been paid. Ms. Cochran stated that no payment has been received to date and that she followed up with the Employer but has not yet received a response. She said that she will provide an update when available.

V. <u>CONSULTANT'S REPORT</u>

A. <u>COBRA Rates for the Year Beginning July 1, 2023</u>

Mr. Urbank reviewed the COBRA rates for the plan year beginning July 1, 2023. The rates reflect the April 1, 2023 stop loss rate renewal and the revised May 1, 2023 Empire JAA fee renewal rates, while the Hospital, Medical, Prescription Drug, Dental and Optical claims costs are based on Segal's projections by benefit for the fiscal year beginning July 1, 2023. Mr. Urbank reported that the core rates are increasing 1.8% to $1,545.93 for individuals and 2.3% to $3,767.27 for families, respectively. He said that the core plus non-core individual and family rates are increasing to $1,567.90 (1.3%) and $3,886.60 (1.3%), respectively.

After discussion,

MOTION was made, seconded and unanimously adopted approving the proposed COBRA rates, effective July 1, 2023.

B. New York Labor Health Care Alliance/ Market Check

Mr. Urbank reported that the New York Labor Health Care Alliance ("NYLHCA"), the coalition that the Fund participates in to access coalition pricing for the Express Scripts pharmacy benefit program, recently retained Segal to perform a market check of the pharmacy contract pricing terms. He explained that a market check is conducted in the second year of a three-year contract to determine if the third-year pricing is competitive in the market if the program was put out to bid. Mr. Urbank stated that the market check resulted in revised pricing terms and a new three-year agreement that is estimated to provide first year savings of $22,300 and $77,600 for three years for the 338 Fund. He said that the one-year savings is $765,000 and $2.7 million for three years for all Funds that participate in the coalition and use ESI.

Mr. Urbank reported that the NYLHCA recently engaged Segal to perform data mining of the participating funds' prescription and medical claims experience. He said that the service, Segal's Health Analysis of Plan Experience (SHAPE), analyzes the data to determine underlying drivers of cost and utilization and to recommend strategies to control and/or reduce costs. He stated that the program is being funded by the coalition and each participating Fund will receive a $.05 per member per month coalition fee credit.

Following discussion, the Trustees approved participation in SHAPE and authorized Associated to proceed with any needed engagement requirements.

VI. L.P. TRANSPORTATION, INC. PAYROLL AUDIT

Ms. Cochran referred to the discussion at the Board of Trustees' meeting held on March 17, 2023 regarding the payroll audit findings for L.P. Transportation. She noted that the employer disputed a portion of the findings but nonetheless paid the principal audit findings. She stated, however, that the employer did not pay the interest amount. On behalf of the employer, Mr. Palmer requested that the Trustees waive the interest. He said that L.P. Transportation has been a loyal employer for many years and that it paid the findings notwithstanding its good faith dispute that they are owed. He thanked the Trustees for their consideration. Ms. Cochran said the total amount due to the Pension and Welfare Funds for interest is $1,136.95. It was noted that Trustee Palmer was recused from participating in this decision.

Trustee Palmer left the video conference.

Ms. O'Leary stated that a waiver of interest on late paid contributions is considered a prohibited transaction under ERISA. She stated that, unless there was a question about collectability, which is not an issue in this case, the Trustees do not have discretion regarding the assessment of interest.

After discussion,

MOTION was made, seconded and unanimously adopted to deny the request to waive the interest owed on the L.P. Transportation payroll audit.

Ms. O'Leary stated she would contact Trustee Palmer and inform him of the Trustees decision.

VII. NEXT MEETING DATE/ADJOURNMENT

It was agreed that the next regular meeting of the Board of Trustees was scheduled for October 20, 2023 at 12:00 p.m. via WebEx. With no further business to come before the Board, the meeting was adjourned at 12:56 p.m.

Exhibits

A – Cash Operating Statement

B – Claims Paid Detail Report

C – Authorization for Disbursements

D – Delinquency Report and Withdrawal Liability Report

E – Employer Contribution Report

F – Active Members and COBRA Participants Receiving Benefits