

TRUSTEES' OPEN MEETING MINUTES

PLACE: Claims Conference Room/Okemos, MI

DATE: April 29, 2019

TIME CALLED TO ORDER: 8:59 a.m.
OPEN SESSION ADJOURNED: 10:10 a.m.

MEMBERS PRESENT:

Trustees: Mark Long, Lee Anne Fontaine, Jerome K. Hooper, Jr.

Assistant Attorney General: Brian Galin, Emily McDonough

Funds Staff: Rick Smith, Allison Kelly and Beth VanElls

PRESIDING PERSON:

John W. Schrock, Funds Administrator

RESPECTFULLY SUBMITTED:

Beth VanElls, Executive Secretary

#	TOPIC	MOTIONS/SECOND/AMENDMENTS MEMORANDUMS/LETTERS	SUMMARY/RESULT
1.	Open Minutes from January 28, 2019, Trustee Meeting	January 28, 2019 Open Meeting Minutes Motion by Mark Long to approve the open minutes of January 28, 2019 as written. Lee Anne Fontaine supported.	Unanimous approval. Minutes approved.
2.	Financial Statements	February 2019 Financial Statements, including Delphi	John Schrock explained only the most current financial statements were provided. John explained there are appropriate fund balances and there is nothing concerning to report. Mark Long questioned if the statements will continue to report Delphi as a separate item. John indicated when the ability to assess additional for Delphi has passed, Delphi will no longer be shown separately on the statements but will be handled the same as any other bankrupt employer. The SISF will however continue to track the Delphi liability separately.

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3.	AAG/SAAG Litigation and Billing Reports	January - March 2019 General Litigation Reports and SAAG Billing Reports, January – March 2019	Brian Galin explained the case counts dropped some compared to last year but are relatively steady. The case count is starting to level out. Brian provided background to Jerome Hooper regarding declining case count and AAG and SAAG assignments. Mark Williams was appointed as a SAAG to handle the case load in the Upper Peninsula.
4.	High Profile Litigation Report		Brian Galin indicated cases are not being appealed, and it is anticipated there are not any cases slated to go to the higher authority in the near future.
5.	BOM & MCAC Outcomes	Report	Brian Galin discussed the Sook-Ryun Chin case. Ms. Chin was granted an open award in the mid 80's and subsequently applied for attendant care benefits, which the State of Michigan (employer) contested. The two issues addressed were opioid use and attendant care. The magistrate found the case no longer qualified as a T & P case and awarded minimal attendant care. The case was appealed to MCAC where the attendant care was affirmed but reversed the T & P finding. The State of Michigan decided not to appeal further. The Funds concurred because it appeared to be in the best interest of the Funds not to appeal further.
6.	Redemption Activity: January 22, 2019 – April 22, 2019	Redemption Report	Brian Galin explained most of the redemptions are related to Dual Employment and SISF. Brian highlighted the <i>Dahlke</i> case which was a long-term SDDF case that met the threshold, the Funds had full liability except for medical and had considerable exposure. Brian felt it was a fair settlement. Per Mark's suggestion, John explained his settlement authority to Jerome Hooper.
7.	Delphi Update	None	Brian Galin provided background on the Delphi cases which began five years ago and the three categories: open award, voluntary pay and disputed. The open award and voluntary categories are basically resolved, and the disputed category is nearing completion, which consists mainly of redemptions waiting to be

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7.	Delphi Update		finalized. The last category is GM assumed cases which the Funds is dismissed once settlement occurs. This has been the largest bankruptcy the Funds has handled in quite some time.
8.	Grand Traverse Pavilion/City of Flint Reimbursement Update	None	John Schrock provided Jerome Hooper the background on these two public entities being inadvertently assessed and the decision to return the funds. A release and waiver was drafted for both entities. The release was sent to Grand Traverse Pavilion but has not been returned yet. The initial contact for the City of Flint is no longer employed at the City of Flint, so contact was made with the Legal Department and the waiver was forwarded. The change in contact delayed forwarding the release to the appropriate person. This has been an unusual circumstance for all involved parties. The hope is to have this issue resolved soon. John added that this was addressed with the auditors.
9.	OAG/SISF 2018 Audit Status		John Schrock provided background of the annual SISF audit requirement due to the 2014 statutory amendments. The audit must be complete by March 31 of each year, which occurred. The SISF received a clean opinion and the opinion has been published. Mark questioned the status of the contract with the actuary. For 2019, the analysis will be done by the same actuary as the contract's end date is January 31, 2020. Rick explained that a bid proposal for the next contract has not been submitted yet and is in the works.
10.	2019 Assessment Discussion	None	Allison Kelly explained she is preparing to call the assessments by the end of the week. She explained the trend is that assessments are declining in conjunction with declining losses. Allison provided an overview to Jerome on the collection of indemnity information from carriers and self-insured employers and calculation of the multipliers. John explained to Jerome how the assessment collection for self-insured employers has declined due to declining indemnity payments and base of self-insured employers. Also,

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10.	2019 Assessment Discussion		<p>John discussed the 2014 statute change which created the PEGSISF effective January 1, 2020 for group insurers which will also decrease the SISF fund balance. The SISF expenditures exceed revenues, although the expectation is that it will even out more next year. The statute dictates that both current year and prior year expenditures must be considered when determining an assessment percentage. It is always a possibility that a large self-insured employer may go bankrupt and cease payment of benefits which would have a large impact on the SISF fund balance. The Self-Insured Division takes precautions to ensure that in the event of a bankruptcy that there is adequate security to cover ongoing claims. The SIF and SDDF assessment are statutory calculations.</p> <p>John suggested maintaining the 2.5 percent assessment for SISF based on the preceding discussion and anticipating a decline in fund balance. Jerome Hooper concurred.</p>
11.	Wage Earning Capacity and Pension Offset Discussion	None	<p>John explained the purpose of this discussion is to get feedback from the trustees; it is not the intent to set policy at this point. Brian provided the Funds' historical policy related to coordination of pensions. When a self-insured employer went bankrupt and the Funds resumed payment of benefits, the Funds typically followed employer protocol related to coordination of pensions. This approach changed with the 2010 <i>Smitter</i> case, which the Michigan Supreme Court ruled that the SIF/DEP Fund was responsible for reimbursement based on coordination even though the employer was not coordinating. This has been an ongoing issue with plaintiff attorneys. The 2011 statute amendments allow for reduction of benefits based on wage-earning capacity. Issues may arise related to claimants' reduced benefits that are also receiving a pension and subject to coordination and whether the coordination would apply to the full rate or</p>

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11.	Wage Earning Capacity and Pension Offset Discussion		the reduced rate and whether to apply both reductions. This is particularly an issue on long-term payment SISF cases that are inherited following a bankruptcy. This is not a current issue, but Brian can foresee this be an issue down the road. Brian feels it would be prudent to note how the insurance industry and self-insured employers as a whole are handling this issue. Lee Anne Fontaine commented that there is not an existing policy for Accident Fund. Mark Long added that historically the rate has been calculated first and then offsets taken. All trustees agree that it is the claimant's responsibility to continue to look for employment and that this will likely be handled on a case-by-case basis.
12.	Moved into Closed Session	Motion made by Mark Long to move the board meet in closed session under section 8e of the Open Meeting Act to review the closed minutes from the prior trustee meeting. Lee Anne Fontaine supported.	Unanimous approval. Moved into closed session at 10:04 a.m.
13.	Closed Minutes from January 28, 2019	Motion by Lee Anne Fontaine to approve the closed minutes from the January 28, 2019 meeting as presented in closed session. Mark Long supported.	Unanimous approval.
14.	Other Business before Board	None	Mark Long explained that John Schrock will be retiring effective May 31, 2019, and that he is currently working on filling the position. It was decided to keep the position as is to oversee both the Funds Administration and the Self-Insured Division because the functions of both areas coincide. The position has been posted and closed, and interviews will be scheduled soon.

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15.	Adjourn Session	Motion by Mark Long to adjourn the meeting. Lee Anne Fontaine supported.	Unanimous approval. Session adjourned at 10:10 a.m.

Mark C. Long, Chair

Date

Lee Anne Fontaine, Trustee

Date