

# TRUSTEES' OPEN MEETING MINUTES

**PLACE:** Claims Conference Room/Okemos, MI

**DATE:** August 19, 2019

**TIME CALLED TO ORDER: 9:17 a.m.**  
**OPEN SESSION ADJOURNED: 10:31 a.m.**

**MEMBERS PRESENT:**

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

Assistant Attorney General: Brian Galin

Funds Staff: Rick Smith, Janice Remer, Allison Kelly and Beth VanElls

**PRESIDING PERSON:**

Emily McDonough, Funds Administrator

**RESPECTFULLY SUBMITTED:**

Beth VanElls, Executive Secretary

| #  | TOPIC   | MOTIONS/SECOND/AMENDMENTS<br>MEMORANDUMS/LETTERS  | SUMMARY/RESULT   |
|----|---|---|--|
| 1. | Emily McDonough<br>Introduction                   |   | Emily McDonough introduced herself in the position as the Administrator of the Funds Administration and her prior employment history at the Department of Attorney General.  |
| 2. | Open Minutes from April 29, 2019, Trustee Meeting | April 29, 2019 Open Meeting Minutes<br><br>Motion by Lee Anne Fontaine to approve the open minutes of April 29, 2019 as written. Mark Long supported. | Unanimous approval. Minutes approved.  |
| 3. | Financial Statements                              | June 2019 Financial Statements, including Delphi  | Emily explained that past practice has been to present the most current financial statements. Mark added that our department is in the process of transitioning from Department of Licensing and Regulatory Affairs (LARA) to Department of Labor and Economic Opportunity (LEO). At this point, LARA Finance will continue to handle the financial statements through the end of the fiscal year, September 30. The Funds Administration is unique in how detailed the financials |

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| 3. | Financial Statements  |  | are in comparison to other agencies. This is the first transition where the Agency has moved to a different department that Mark can recall.  |
| 4. | AAG/SAAG Litigation and Billing Reports   | April - July 2019 General Litigation Reports and SAAG Billing Reports, April – July 2019 | Brian Galin explained the case counts are consistent with the same time last year which has not occurred in a while since the case count has been on a downward trajectory. There is not a great need for SAAG's as the AAG's are able to handle the caseload. Marcia Femrite retired in June. The only SAAG that is getting case assignments is John Heikkila in the UP. Emily questioned whether there are still plans for the Attorney General to open a satellite office in the upper peninsula; Brian confirmed that there will be an office in Marquette but is unsure of how it will be staffed. |
| 5. | High Profile Litigation Report  |  | Brian Galin indicated there is nothing to report.   |
| 6. | BOM & MCAC Outcomes   | Report   | <p>Brian Galin discussed the Clahassey case. The Funds prevailed at the Board of Magistrates. There were 2 DOI's—one with dual employment and the other DOI without—and the magistrate determined the DOI is the non-dual employment DOI.</p> <p>The Funds was dismissed on the Ebert case as the plaintiff was determined to be a non-covered agricultural employee.</p> <p>Brian recapped the Chin case again.</p>  |
| 7. | Redemption Activity: April 23, 2019 – August 14, 2019                             | Redemption Report  | Brian Galin explained that there are no significant updates. There were some Delphi resolutions, but the remaining number is diminishing substantially. There were less redemptions last quarter than normal.   |
| 8. | Cherry Growers, Inc. & Lefere Forge and Machine Company Inc. Acceptance of Trusts | Cherry Growers, Inc. & Lefere Forge and Machine Company Inc. trust agreements            | Emily provided the background on each self-insured company's insolvency and the effect on the existing letter of credit held by the Self-Insured Division. Further explanation was provided when the Self-Insured Division calls the letter of credit and funds are put in a trust managed by Treasury for the purpose of paying claims. The Acceptance of Trust documents were provided to the trustees and Emily outlined what  |

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| 8.  | Cherry Growers, Inc. & Lefere Forge and Machine Company Inc. Acceptance of Trusts |  | acceptance of the trust means that the trustees accept the purpose of the trust, the obligations under the trust, and the priority of payments pursuant to the trust document. The trustees signed the acceptance of trust agreements.   |
| 9.  | Delphi Update   |  | Brian explained the majority of cases are General Motor cases where the Funds needs to be dismissed as a party, so it is a matter of waiting for the cases to be resolved. There are several cases waiting for the part 2 redemptions. There are a few litigated cases that need to be resolved, and it is anticipated that they will not go to trial. Mark Long notified the State Budget Office that the Funds likely will not assess the increased assessment, which is allowed through the end of the year. This is the last year the increased assessment is available related to Delphi legislation. |
| 10. | 2019 Assessment Update  | None   | Allison Kelly explained that they have collected about 98% of what is due and there are still 50 outstanding employers. Use of ACH continually increases each year. Contact has been made with most parties, but if payment is not received soon, certified letters will be mailed.  |
| 11. | LARA Transition to LEO  | None   | Emily explained the Agency is now part of LEO and progress has been made towards this transition. The biggest concerns for the Funds are the financials and the calendar versus fiscal year audit for the SISF. Emily made the transition team aware of these requirements. The goal is that the departmental change is transparent and does not disrupt day-to-day operations. Mark added that his status as director has not changed.  |
| 12. | Direct and Administrator attendance at IAIABC annual conference in Pittsburgh     | None   | Emily explained that the annual IAIABC conference this year will be held in Pittsburgh in October. Traditionally the administrator and director attend this national conference. There are break-out sessions conducted by SIGFA related to approval and administration of self-insurance. Emily McDonough and Mark Long will attend the IAIABC conference this year.  |

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| 12. | Direct and Administrator attendance at IAIABC annual conference in Pittsburgh |  | Brian added there is an annual national bankruptcy conference which will be held in New Mexico this year. For the annual bankruptcy conference, typically an attorney with the Attorney General office attends each year for representation of SISF cases; however, there has not been a representative for a few years and Brian feels it would be appropriate for an AAG to attend again. Andrew Lemke has worked for the AG's office for ten years and has represented Funds' cases. This conference keeps the AG office up-to-date on bankruptcy law changes which are related to SISF. The Funds will reimburse the cost for attendance at this conference. |
| 13. | 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 consult with our attorney regarding trial or settlement strategy in connection with Ruth Brock v Molded Products & SIF/P&T, William Buchler (dec'd) v Thunder Bay Mfg. & SDDF, Robert Reed overpayment issue, and Emily McDonough's settlement authority. Lee Anne Fontaine supported. | Unanimous approval. Moved into closed session at 9:44 a.m.   |
| 14. | Ruth Brock v Molded Products & SIF/P&T  | Motion by Lee Anne Fontaine to move forward on settlement for Ruth Brock v Molded Products & SIF/P&T case as discussion in closed session. Jerome Hooper Jr. supported.  | Unanimous approval.  |
| 15. | Robert Reed overpayment issue   | Motion by Lee Anne Fontaine to proceed with the strategy regarding the Robert Reed overpayment issue as discussed in closed session. Mark Long supported.  | Unanimous approval.  |
| 16. | Emily McDonough's settlement authority  | Motion by Mark Long to approve the Fund Administrator's settlement authority as discussed in closed session. Lee Anne Fontaine supported.  | Unanimous approval.  |
| 17. | December meeting date change  | None.  | Lee Anne Fontaine requested that the next meeting scheduled for December 9 be moved. The trustees agreed that December 2 would work for everyone.  |

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| 18. | Adjourn Session | Motion by Mark Long to adjourn the meeting. Lee Anne Fontaine supported. | Unanimous approval. Session adjourned at 10:31 a.m. |

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Mark C. Long, Chair Date

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Emily McDonough, Administrator Date