



GOVERNMENT OF GUAM
RETIREMENT FUND
 STABILITY · SECURITY · REWARDS

BOARD OF TRUSTEES
Regular Meeting
 Friday, June 25, 2010, 12:00 p.m.
 Retirement Fund Conference Room

MINUTES

DEFINED BENEFITS

I. ATTENDANCE, QUORUM, AND CALL TO ORDER

After determining a quorum was present, the Retirement Fund Board of Trustees Regular Meeting for the Defined Benefits Plan was called to order at 12:55 p.m. Friday, June 25, 2010, in the Retirement Fund Conference Room. Chairman Joe T. San Agustin officiated.

Board of Trustees Present:

Joe T. San Agustin, Chairman
 Gerard A. Cruz, Treasurer
 Wilfred G. Aflague, Trustee
 George A. Santos, Trustee
 Katherine T.E. Taitano, Trustee

Board of Trustees Absent:

Wilfred P. Leon Guerrero, Vice-Chairman
(Off-Island)
 Antolina S. Leon Guerrero, Secretary
(Off-Island)

Staff Present:

Paula Blas, Director
 Diana Bernardo, Controller
 Rosalia Bordallo, General Accounting Supervisor
 Jackie Blas, Recording Secretary
 Dr. John C. Steele, Retirement Fund Medical Consultant *(1:25 p.m.)*
 Kenneth Dunstan, Benefits Program Administrator
 Jackie Sablan, Benefit Specialist II

Public Present:

Former Senator Ted Nelson
 Dr. Olivia Cruz

Trustees:

Joe T. San Agustin
 Chairman

Wilfred P. Leon Guerrero, Ed.D.
 Vice-Chairman
 Investment Committee, Chairman

Antolina S. Leon Guerrero
 Secretary

Gerard A. Cruz
 Treasurer
 Audit & Operations Committee,
 Chairman

George A. Santos
 Members' & Benefits Committee,
 Chairman

Katherine T.E. Taitano
 Trustee

Wilfred G. Aflague
 Trustee

II. REVIEW AND APPROVAL OF BOARD MINUTES

A. May 28, 2010 Regular Meeting

Chairman San Agustin stated that it's nice to see that Mr. Michael Carlson has indicated that he is willing to be the retiree representative for the Fiscal Year 2011 Government of Guam Group Health Insurance Program.

Chairman San Agustin inquired about the status of Contrarian Capital Management's request to purchase Retirement Fund's Lehman holdings. Treasurer Gerard Cruz stated that Contrarian was not clear on their offer and on the ISIN Numbers. Treasurer Cruz stated that the Investment Committee could not match the numbers provided by Contrarian. Director Paula Blas stated that this matter is under the Investment Committee Report.

Chairman San Agustin inquired about Terry Dennison's (Mercer Investment Consulting, Inc.) statement regarding AXA Rosenberg that "the firm could go down the drain." Treasurer Cruz stated that it is a technical term that Mr. Dennison used. Chairman San Agustin asked what is the Retirement Fund's exposure. Treasurer Cruz stated that the Retirement Fund has no exposure with AXA.

Chairman San Agustin asked why the Retirement Fund would ask Northern Trust what is in the portfolio. Director Blas stated that it is to find out what kind of revenue could we expect if the Retirement Fund decided to participate in Securities Lending in their Basic Collateral Portfolio. It is to weigh out the benefits of participating or not participating in Securities Lending. Rosalia Bordallo, General Accounting Supervisor, stated that the thing with Mr. Dennison was that the Retirement Fund has to leave this option open because that was what was negotiated with Northern Trust's contract so we would want to leave it on paper to show our interest in Securities Lending.

On motion of Treasurer Gerard Cruz, seconded by Trustee George Santos, and without objection, the Minutes of May 28, 2010 Regular Meeting were approved, subject to corrections. Motion unanimously passed.

III. CORRESPONDENCE

Director Blas stated that she just received Mr. Felix Santos' June 10, 2010 letter addressed to Chairman San Agustin. Chairman San Agustin referred Mr. Santos' letter to the Members and Benefits (M&B) Committee.

IV. INFORMATIONAL ITEMS

None

V. DIRECTOR'S REPORT - EXECUTIVE SUMMARY

1. *Candelaria Rios, et al. vs. Joseph Ada, et al. (Special Proceeding Case No. SP206-93)* – Director Blas stated that pursuant to Public Law 30-101, \$3,477,545 was appropriated to pay the principal or interest from principal owed to COLA Awardees. The funds will be disbursed starting with the lowest initial award from the class settlement, followed by the next lowest initial award, and repeating the disbursement methodology until all the funds appropriated and authorized are exhausted.

Also, \$1,147,753 was appropriated to pay the 72 retirees who initially opted out and are not covered by the COLA settlement agreement. These retirees will be eligible for payment under the same terms and conditions as the certified COLA class. Director Blas stated that there will be no interest accrued or paid for any payments made to the OPT OUT Retirees. COLA payments under this Bill will not exceed \$20,000. Attorney fees of 10% will be deducted.

Director Blas stated that of the \$3.4 Million appropriated, \$1.4 Million was paid out to approximately 1,792 retirees, survivors, and beneficiaries in accordance with Public Law 30-101.

2. **Global Custody Services** – Director Blas stated that at the May 28, 2010 Board meeting, the Board continued to suspend participation in Securities Lending. Director Blas stated that the Retirement Fund will revisit participation in Securities Lending during the August 2010 quarterly meeting with Mr. Dennison.

3. **Request for Proposal (RFP): International Developed Markets Large Cap Equity** – Director Blas stated that the evaluation process is ongoing. The Selection Panel consists of Trustee Wilfred G. Aflague, Trustee George A. Santos, and Secretary Antolina S. Leon Guerrero. Director Blas stated that discussions will commence on the first week of July 2010.

4. **Public Law 28-38: Interest Only Payments** – Director Blas stated that the monthly interest payments for the Department of Education (DOE) and Guam Memorial Hospital Authority (GMHA) due on June 10, 2010 were paid by the Treasurer of Guam. The Retirement Fund continues to process retirement applications for DOE. Director Blas stated that applications for retirement from GMHA employees will be suspended until GMHA becomes current with their retirement contributions.

5. **GMHA: Outstanding Contributions** – Director Blas stated that all Defined Benefit (DB) payments made by GMHA are being applied to accrued interest and penalties first, then applied to the oldest receivable. Director Blas provided a breakdown of the outstanding contributions. Director Blas stated that the outstanding contributions were as of pay period ending May 22, 2010 which was due on June 14, 2010. As of today's date, their total amount due to the Retirement Fund on the DB Plan is \$2.2 Million. Chairman San Agustin stated that this is the time the Board needs to talk about what course of action needs to be taken. Director Blas stated that she received a response to the Retirement Fund's June 17, 2010 letter from GMHA dated June 24, 2010. Director Blas stated that GMHA is basically explaining their situation as to why they are currently falling behind and that it has to deal with the way the Department of Administration (DOA) is disbursing their funding source. Director Blas stated that funding is from two different sources – Gross Receipts Tax (GRT) and Pharmaceutical Fund. Chairman San Agustin stated that there is no solution indicated in GMHA's letter.

Chairman San Agustin asked what is the Board's obligation to get this paid. Trustee Wilfred Aflague stated that with GMHA's response, what is the Board's responsibility to the Retirement Fund. Treasurer Cruz asked whether GMHA is aware that the Retirement Fund is not accepting applications for retirement from GMHA. Director Blas replied, "Yes." Director Blas stated that GMHA employees are making visits to the Legislature and the Governor's Office with regards to being able to retire. Director Blas stated that this includes three disability applicants that the Retirement Fund can not entertain. Trustee George Santos asked what is the Board's next step. Trustee Katherine Taitano asked whether letters were sent out to the employees. Director Blas stated that GMHA was informed that if they did not pay by June 30, 2010, the Board does have the option of proceeding with filing the

Writ of Mandate. Chairman San Agustin instructed Retirement Fund Management to inform GMHA that based on the Board's fiduciary responsibility, the Board will have to proceed with legal action. Chairman San Agustin stated that the Board's position is to stay with the June 30, 2010 deadline for GMHA to submit payment. Treasurer Cruz stated that it is the Board's intention to proceed with filing the Writ if payment is not received by June 30, 2010. Chairman San Agustin stated that Management should also inform GMHA that the Retirement Fund's Legal Counsel has been directed to proceed with filing the Writ of Mandate if payment is not received by the June 30, 2010 deadline. Trustee Santos asked whether the Writ will still be filed if full payment is not made. Director Blas replied, "Yes."

Treasurer Gerard Cruz, seconded by Trustee George Santos, moved to approve to proceed with filing the Writ of Mandate by July 1, 2010 if Guam Memorial Hospital Authority does not meet the June 30, 2010 deadline to submit their full payment to the Retirement Fund. Without objection, the motion unanimously passed.

6. ***Bernstein Litowitz Berger and Grossmann (BLBG)*** – Director Blas stated that there are no new updates on the following lawsuits:

- Lehman Brothers
- Wells Fargo
- Genzyme Corporation

7. ***Fiscal Year 2011 Government of Guam Group Health Insurance Program*** – Director Blas stated that negotiations for the Fiscal Year 2011 Government of Guam Group Health Insurance Program commenced on June 16, 2010. Director Blas stated that due to the anticipated release of the new Patient Protection and Affordable Care Act (PPACA) regulations at the end of June 2010, health insurance negotiations were suspended until late July 2010. Director Blas stated that there are some provisions that will be mandated which could affect rates.

Financial Report

1. ***Contributions*** – Director Blas stated that as of June 23, 2010, all other agencies are current with their Fiscal Year 2010 employee and employer contributions with the exception of GMHA.

2. ***Financial Statements*** – Director Blas stated that the books for the month ending May 2010 were closed on June 17, 2010.

3. ***Fiscal Year 2010 Retirees' Supplemental Benefits*** – Director Blas stated that the supplemental benefits for retirees and survivors for the month of June 2010 will be paid by June 30, 2010.

4. ***Medicare Reimbursements*** – Director Blas stated that the Retirement Fund received the June 2010 allotment from the General Fund and payments are processed accordingly.

VI. LEGAL COUNSEL'S REPORT

No report was made at this time.

VII. TREASURER'S REPORT OF FINANCIAL STATUS

Treasurer Cruz stated that the Treasurer's Report is provided, at this meeting. It covers the Retirement Fund's Statement of Plan Assets (unaudited) and Prior Year Receivables for both the Defined Benefit (DB) Plan and the Defined Contribution (DC) Plan for the month ended May 31, 2010. Treasurer Cruz stated that the Retirement Fund has \$1.47 Billion total assets. Treasurer Cruz stated that there is no need to alter the drawdown schedule at this time. The Retirement Fund is still within its drawdown authority.

VIII. STANDING COMMITTEE REPORTS

A. Members and Benefits Committee

Trustee Santos presented his Committee's June 2010 report to the Board of Trustees.

Trustee George Santos, seconded by Treasurer Gerard Cruz, moved to approve the recommendation of the Members and Benefits Committee contained on Pages 4 through 11, including the attached Annuity Worksheets, based on the Committee's review and findings during their meeting of June 9, 2010 and subsequent meetings thereafter. Without objection, the motion unanimously passed.

Trustee Santos stated that based on the M&B Committee's review and findings during their meeting of June 9, 2010, the following disability applications, contained on Page 12, are recommended to be presented to the Board for their discussion and disposition:

1. DISABILITY CASE NO. 09-021

Chairman San Agustin informed everyone present at today's meeting that the disability applicants are referred to by their case numbers. The names of the applicants are not provided or known by the Board of Trustees. Chairman San Agustin stated that if an applicant would like to address the Board, he/she would have to waive his/her rights to the privacy of their medical records and he/she must state his/her name for the record. Chairman San Agustin indicated that no one came forward.

Trustee Santos stated that this 37 year old military veteran and Relay Technician II with the Guam Power Authority, reapplied for disability pension on November 17, 2009. The applicant's conditions of disability included "severe bilateral carpal tunnel syndrome, cervical radiculopathy, hemachromatosis, and tinnitus. The applicant has not returned to work since his/her first application in 2006. The medical examiners that were involved in this present application were the applicant's family physician, Dr. Donald Preston and Dr. Chen Chuang, an oncologist. Dr. Chuang assigned a disability rating of 100% for "musculoskeletal-cervical spine." The physicians for the Retirement Fund were Dr. Fred Schroeder who rated the applicant's disability by AMA guidelines at 72% and Dr. Patrick Santos who assessed the applicant's disability as 100%. Dr. John Steele, the Retirement Fund's Medical Consultant, rated the applicant at less than 50% disability. Trustee Santos stated that Dr. Steele discussed the matter with Dr. Schroeder and Dr. Santos and they reviewed the patient's charts, notes and his opinion. The physicians had agreed to reevaluate their disability rating to less than 50%. Being as such, Dr. Steele recommends denial of disability pension and recommends interview with the Board for their concurrence.

Chairman San Agustin stated that he is concerned that the two physicians for the Retirement Fund had initially rated the applicant at 100% and another rated at 72% disability. Chairman San Agustin stated that the applicant's family physician also rated the applicant at 100% disability. Chairman San Agustin stated that Dr. Steele consulted with the two physicians and managed to have Dr. Schroeder change his rating from 72% to 49% and Dr. Santos from 100% to between 32 and 42%. Chairman San Agustin asked whether Dr. Steele evaluated the applicant. Dr. Steele stated that he did not examine the applicant. Chairman San Agustin asked whether Dr. Steele relied on the two physicians' report to suggest for them to change their disability rating. Dr. Steele stated that by AMA guidelines, the applicant's disability ratings were less than 50% by many physicians. Dr. Steele stated that by the request of the applicant's attorney, the applicant was assessed by Dr. Raymond Tanaguchi and Dr. Tanaguchi found no disability. Dr. Steele stated that this is the applicant's second application for disability and there are no changes. Dr. Steele stated that, after discussion with Dr. Schroeder and Dr. Santos, they both agreed that they were excessive in their disability ratings by AMA guidelines and they revised their rating. Dr. Steele stated that by AMA guidelines and by agreement of all physicians who evaluated the applicant, the applicant's disability is less than 50%. Chairman San Agustin stated that he is concerned that Dr. Schroeder and Dr. Santos did not amend their initial evaluation. Dr. Steele stated that he could request to have the two physicians amend their initial evaluations. Chairman San Agustin pointed out that Dr. Steele never evaluated the applicant. Dr. Steele stated that he never evaluates any of the applicants. Chairman San Agustin also pointed out that the physicians that evaluated the applicant have given high ratings, but upon consultation with Dr. Steele, the physicians changed their ratings. Chairman San Agustin stated that it is very discomfoting when physicians change their evaluation without an amendment.

Dr. Steele stated that there is a profound change on the applicant's current situation. The applicant has been admitted to GMHA. The applicant is now bed bound. Dr. Steele stated that there is no question now that the applicant is disabled. Trustee Aflague asked whether the applicant is willing to address the Board. Treasurer Cruz stated that the question is whether the Board is prepared to make a decision on the current application based on its presentation on its current form. Treasurer Cruz stated that Dr. Steele brought up the point that there have been some changes since this application was submitted and asked whether the Board will consider the application based on the applicant's current condition or make a decision on what was presented. Treasurer Cruz stated that the Board has a situation where there is deterioration in the applicant's health conditions. Dr. Steele stated that the applicant's condition was unchanged on the application but, now the applicant is unlikely to make a recovery. Dr. Steele stated that the Board could approve disability pension on the basis of the recommendations of the physicians. Dr. Steele stated that the applicant's current medical condition is quite serious. Dr. Steele stated that if he was to assess the applicant today, he would give the applicant a rating of 100% permanent disability.

Treasurer Gerard Cruz, seconded by Trustee Wilfred Aflague, moved to approve full disability pension for Disability Case No. 09-021, based on the applicant's recent medical condition. With a unanimous affirmative vote, the motion unanimously passed.

Former Senator Ted Nelson apologized to the Board for coming in late. Senator Nelson stated that he believes that the applicant was going to be transported to the Retirement Fund for the meeting. Senator Nelson thanked the Board for allowing him the opportunity to address the Board.

Dr. Olivia Cruz made a comment that the reason why she wanted the applicant to be transported to the Retirement Fund was because she reviewed the case and found that it was important that the applicant be personally seen by the Board, but that she was informed that it is against GMHA policy to have the applicant transported to a non-treatment facility. Dr. Cruz thanked the Board.

The applicant's mother stated that she is sorry that it took the Board this long to approve the applicant's disability.

2. DISABILITY CASE NO. 09-023

Chairman San Agustin announced that the applicant has the option to address the Board, but that he/she would have to waive his/her rights to the privacy of their medical records and he/she must state his/her name for the record. Chairman San Agustin indicated that no one came forward.

Trustee Santos stated that this 51 year old Word Processing Secretary with the Department of Public Health and Social Services and the WIC Program, made application for disability retirement on December 11, 2009. The applicant's disability was "heart condition with limited mobility due to stroke." The applicant has difficulty with walking, prolonged standing, prolonged sitting, low energy, inability to withstand excessive stress, and unable to carry objects. The applicant has not returned to employment since the date of the applicant's stroke on May 6, 2008.

Trustee Santos stated that the applicant's attending physician internist, Dr. Edwin Supit, rated the applicant at 95% impairment by AMA guidelines. Dr. Schroeder's overall evaluation concluded the applicant's disability rating was 77% by AMA guidelines. Dr. Santos assessed 95% impairment by AMA guidelines. Trustee Santos stated that Dr. Steele rated the applicant's disability at 32 to 65% impairment of the whole person. Trustee Santos stated that Dr. Steele recommended having the applicant evaluated by the Board.

Chairman San Agustin asked whether the Board would like to discuss the case. Dr. Steele stated that his recommendation is for the Board to have a chance to interview the applicant and for the Board to conduct their assessment of the applicant's disability. Chairman San Agustin reiterated that the applicant has the option to address the Board. Chairman San Agustin again indicated that no one came forward.

Dr. Steele stated that his concern, in assessing the applicant's record, is that he does not have the advantage of seeing the applicants and is dependant on what the physicians write on their evaluations. Dr. Steele stated that his concern is on Dr. Schroeder's note that the applicant's only difficulty was in ambulation and that Dr. Schroeder felt that the applicant's ambulation was exaggerated during examination. Dr. Steele stated that there was a question of how disabled the applicant was by the stroke. Dr. Steele stated that this is why he felt this matter should be reviewed by the Board. Dr. Steele mentioned that stroke patients could get better two years from when the stroke occurred. Chairman San Agustin noted that Dr. Santos expressed a different opinion from Dr. Schroeder where he mentioned exaggeration. Trustee Santos commented that Dr. Schroeder has always been a good and consistent examiner and in this particular case he rated 77% despite his comment of expressing exaggeration. Trustee Santos stated that Dr. Santos consistently has a high rating.

Trustee Taitano asked Dr. Steele whether a person who suffered a stroke could see improvement in their ability within the following two years. Dr. Steele stated that the applicant has almost past two years. Trustee Aflague asked whether the applicant has not been medically cleared to return to work by the applicant's physician. Trustee Santos stated that the applicant has not been cleared from his/her physician. Chairman San Agustin stated that whenever an applicant has been granted disability retirement, the applicant is still subject to two medical reexaminations within the next seven years.

Trustee George Santos, seconded by Trustee Katherine Taitano, moved to approve full disability pension for Disability Case No. 09-023. With a unanimous affirmative vote, the motion unanimously passed.

3. DISABILITY CASE NO. 09-025

Chairman San Agustin announced that the applicant has the option to address the Board, but that he/she would have to waive his/her rights to the privacy of their medical records and he/she must state his/her name for the record. Chairman San Agustin indicated that no one came forward.

Trustee Santos stated that this 54 year old Plan Maintenance Supervisor with the Guam Power Authority made application for disability Retirement on December 15, 2009. The applicant's condition for disability is Alzheimer's disease. The applicant is very forgetful in his/her current state. The applicant's memory loss and confusion prohibits him/her from performing even the simplest of tasks.

Trustee Santos stated that the applicant's medical examiners include the applicant's attending neurologist Dr. Ramel Carlos. Trustee Santos stated that Dr. Schroeder assigned a disability rating of 74% by AMA guidelines. Dr. Patrick Santos rated the applicant's disability at 29%. Dr. Steele gave a rating of 58-80% disability by AMA guidelines. Trustee Santos stated that Dr. Steele recommends granting total disability pension. Dr. Steele commented that those physicians who see the applicants have a first hand view and they make the best assessments. Dr. Steele stated that he agrees with Trustee Santos that Dr. Schroeder is a good and consistent examiner and that Dr. Santos is catching up and there is consistency with the two examiners.

Trustee George Santos, seconded by Trustee Katherine Taitano, moved to approve full disability pension for Disability Case No. 09-025. With a unanimous affirmative vote, the motion unanimously passed.

B. Investment Committee

Treasurer Cruz reported that the Investment Committee meeting was held on June 11, 2010. There are no action items. Treasurer Cruz informed the Board of Trustees that the next Due Diligence Meeting is scheduled for August 2010.

Treasurer Cruz inquired about the clarification regarding Section 8150. Director Blas stated that she has the draft amendment to clarify Section 8150. Director Blas stated that she will submit the draft amendment to the Investment Committee and from there it will be submitted to the Legislature.

Informational Items:

1. **Letter from Contrarian** – Treasurer Cruz stated that Contrarian has indicated it is interested in purchasing the Retirement Fund’s Lehman holding. Management provided a copy of Contrarian’s April 27, 2010 letter to Blair Nicholas of BLBG for his input. Treasurer Cruz stated that Mr. Nicholas indicated that they are not in a position to opine on whether selling the bonds makes sense from an investment perspective. However, from a litigation standpoint, selling the bonds will not release the Retirement Fund’s claim in the Lehman Action. Treasurer Cruz stated that this was discussed with Mr. Dennison during the May 2010 Due Diligence Meetings. Treasurer Cruz stated that Mr. Dennison indicated that we should go back to Contrarian and ask them to bid and see what they would offer and then get that price and ask our managers if it is a fair price.

In response to the Retirement Fund’s June 7, 2010 letter, John Bright of Contrarian indicated they are interested in the following Lehman Assets: ISIN #XS0312461642, XS0367268066, and XS0366668621. However, the ISIN number for the Lehman Assets held by Income Research Management (IRM) and Franklin Templeton is: ISIN #US5252M0FD44, which differs from those indicated above by Contrarian. Northern Trust has also confirmed that the three Lehman Assets indicated by Contrarian above are not held in the Retirement Fund Portfolio.

2. **Minutes** – Treasurer Cruz stated that the Committee reviewed and approved the Investment Committee Minutes of May 14, 2010.

3. **Securities Lending** – Treasurer Cruz stated that participation in Securities Lending continues to be tabled and will be discussed with Mr. Dennison during the next Due Diligence Meeting on August 26, and 27, 2010. Treasurer Cruz stated that the Committee has also requested that Northern Trust provide an updated analysis of what collateral options are available, and what returns are expected to be. This analysis will be reviewed during next month’s Investment Committee Meeting.

IX. OLD BUSINESS

None

X. NEW BUSINESS

None

XI. OPEN DISCUSSION / GENERAL PUBLIC INPUT

None

XII. ANNOUNCEMENTS

None

XIII. ADJOURNMENT

There being no further business before the Board for the Defined Benefits Plan, on motion of Trustee George Santos, seconded by Trustee Katherine Taitano, and without objection, the meeting was adjourned at 2:10 p.m. Motion unanimously passed.

I hereby certify that the foregoing is a full, true and correct copy of the Minutes of June 25, 2010 Regular Meeting duly adopted and approved by the Government of Guam Retirement Fund Board of Trustees on July 30, 2010.



WILFRED G. AFLAGUE, Acting Board Secretary

RECORDING SECRETARY:



Jackie Blas