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Notes from Meetings of the Board of Directors and of the Executive Committee of Public Agency Compensation Trust

Place: Harrah's Hotel,
Reno, Nevada
Time: 10:00 a.m. or
Upon adjournment of Joint Board Meeting
Date: April 27, 2007

NOTE: Due to lack of a quorum, the meeting was treated as an informational workshop to inform the Executive Committee about the issues and concerns of the board members present. No action was taken.

1. Introductions and Roll

Upon determining that a quorum was not present for the meeting, Chairman Kalt announced that the meeting would be held as a workshop to explain the issues on the agenda and to receive comments, questions and objections from the members present. He announced that the same agenda items had been posted as a Joint Executive Committee meeting on Wednesday, May 2, 2007 at 3:00 p.m. He directed staff to notify all board members of the meeting and invite them to participate by calling in to the conference call.

2. Action Item: Consent Agenda: Approve as a Whole Unless Moved From Consent Agenda

- **Approval of Minutes of Board Meetings:**
  Board Meeting April 27 & 28, 2006
- **Acceptance of Minutes of Committee Meetings**
  Executive Committee December 15, 2006
- **Acceptance of Reports:**
  Claims Experience Report
- **Amend Bylaws Article VII to Reflect Board Decision to Revise its Policy on Equity**
- **Ratify Executive Committee Decision to Approve Amendment to Contract with Alternative Services Concepts, LLC. For Claims Management Services Adjusting Cost Plus Fee Schedule to 12% Margin and Additional Staffing and Services**

Chairman Kalt asked for any comments or questions regarding any of the consent agenda items. Wayne Carlson explained that the Bylaw amendment to remove the equity to retention ratio was necessary since the board had amended its policy statement on equity to reflect a higher ratio last year and thus the Bylaw was in conflict with the policy. He suggested that the this ratio should be a matter of policy, not a Bylaw.

Wayne Carlson explained the background for the recommendation to the Executive Committee to amend the ASC contract to add additional staff. He noted that based upon legal advice and brainstorming by ASC staff, legal counsel, Doug Smith and himself, there was a clear need to add staff to enable the adjusters to do a more thorough and effective job of analyzing the medical components of a claim to be certain that it was a workers compensation injury and also to manage the claims outcome. In addition, ASC staff had been out training members on claims processing and their duties under the law, particularly regarding heart-lung responsibilities. Mike Livermore has been assisting with legislative efforts and his expertise has been invaluable to that process. In all, better claims services would result and that should help lower costs over time.

3. <u>Action Item</u>: Acceptance of Audit for June 30, 2006

Wayne Carlson reviewed the financial indicators in the Management Discussion & Analysis section of the audit and reviewed the financial statements noting that PACT had excellent results that came about from substantial reserve improvements in recent years. He commented that the reserves were verified by an independent claims auditor to be within the normal range overall and thus adequately representative of the claims activity.

4. <u>Action Item:</u> Acceptance of Reports
a. Large Loss Report
b. Actuarial Update

Doug Smith reviewed the board packet material regarding large losses and the actuarial projections used to establish financial reserves. He also reviewed the results of the actuarial rate study and indicated that overall rates would be reduced for most classifications. He cautioned that individual experience modification factors would affect whether a particular member received the full benefit of the rate reductions. Doug responded to questions from the board.

5. <u>Action Item:</u> Acceptance of Budget for 2007-08

Chairman Kalt reviewed the budget summary and asked whether there were questions or comments. Wayne Carlson noted that there were two items to be taken from equity and not included in the expense allocation. One was the risk management grants program in the amount of $100,000 to start. The other is a new cardiac wellness program to be discussed in the next agenda item.

6. <u>Action Item:</u> Adoption of Resolution Authorizing Implementation of the Proposed Cardiac Wellness Program; Approval of SpecialtyHealth as the Service Provider for the Physical Examinations and Cardiac Wellness Program; and Authorization to Enter into Agreement with SpecialtyHealth for this Purpose

Wayne Carlson explained the background leading to this proposal. He referred the board to the agenda packet materials, but highlighted the concerns about prevention of heart disease as a necessary means with which to protect PACT from financial consequences of the heart disease benefits to employees and to protect the employee from heart disease. He suggested that prevention was of mutual benefit to employer and employee because the employee may not have the heart attack and the employer (and PACT) would not have to pay the benefits. The scope of the program would involve obtaining physical examinations from all employees subject to the heart disease benefit, having them reviewed by SpecialtyHealth for both quality and profiling of the risk factors for the employee. SpecialtyHealth then would establish protocols for training the physical examination providers in how to conduct legally compliant examinations and reporting to PACT staff whether the provider would correct any deficiencies. Failure to correct would result in PACT contacting the employer to gain compliance or to select another provider or else face financial penalties. SpecialtyHealth also would profile each employee and establish an appropriate wellness program and follow-up process to assist employees with improving their cardiac wellness. Where an agency profile shows a need for additional training and education, they would coordinate with Josh Wilson of Willis Pooling to conduct classes for the agency. Wayne commented that legal counsel Robert Balkenbush had provided an opinion that indicated that the employer's duty to discuss the results of the physical examination with the employee was a delegable duty. Wayne indicated that SpecialtyHealth would take on that duty to assure that compliance with the statutory requirement was achieved. All of these factors would work together to assure compliance with the laws and regulations, but more importantly to help to prevent cardiac problems was manifesting into claims.

Chairman Kalt asked whether there were any questions or comments. Wayne Carlson responded to several board questions seeking clarification about the law and the program. He commented that follow-up processes would be in place to assist employees with their wellness efforts.

7. <u>Action Item</u>: Approve Broker/Loss Control Services Contract with Willis Pooling

Bob Lombard provided handouts of the Willis Stewardship Report and a member services report. He showed a brief PowerPoint presentation of the marketing efforts for PACT and POOL this year. Wayne commented that the contract fee increase was proposed at a 4% increase.

8. <u>Action Item:</u> Consider Options to Change Payroll Basis for PACT

a. Continue Current Calendar Year Capped Payroll as Basis for Fiscal Year Subject to Audit at End of Fiscal Year

b. Use Calendar Year Audited Capped Payroll as Basis for Fiscal Year

c. Use Fiscal Year Capped Payroll Subject to Audit at End of Fiscal Year

Alan Kalt referred the board to the packet materials about each option and commented on the effects of each. He indicated that if the current method had a higher payroll basis than the alternative methods and if claims remained the same, rates would rise. Wayne Carlson commented that both options b and c could be implemented effective July 1, 2006 or effective July 1, 2007. In either case, PACT would realize reduced income since the rates were based upon a higher payroll basis, but the difference would not be significant for PACT to absorb. He reiterated Alan Kalt's observations about the effect on rates over time. Alan Kalt asked for any questions or comments. Wayne Carlson responded to questions from board members about the financial impact.

9. <u>Action Item:</u> Adoption of Capitalization Strategy Policy Statement

Wayne Carlson reviewed the basis and rationale for utilizing a capitalization strategy as a tool to assist the board with decisions as to whether to form a captive and, if so, with how much capital without damaging PACT's financial condition. He commented that the methodology tracked with board policy on equity to retention, but the analysis was not an actuarially tested one. He noted that he prepared a sample spreadsheet for the board packet that was one illustration of several spreadsheets he had prepared for analyzing options. He showed a spreadsheet that reflected some of the renewal options for PACT and what would happen to the financial ratios with and without the captive or alternative retentions. He emphasized that the draft policy statement included guidelines that focused on retaining 50% of any equity gains within PACT while making up to 50% available for capitalization should the board determine to do so to form a captive or to add capital to a captive in future years.

10. <u>Action Item</u>: Approve Formation of Nonprofit Captive Mutual Insurance Company and to Authorize Capitalization

Chairman Kalt introduced this topic citing the successful implementation of a captive by the POOL. Doug Smith commented on the draft business plan and mentioned the positive meeting with the top staff for captives in the Insurance Division. He reminded the members of the captives discussion at yesterdays workshop presented by Cliff King, who heads the captives section for the Insurance Division. Doug said that the stimulus for forming a workers compensation captive came from discussions with the Insurance Division about the problems caused by the statutory requirement for aggregate excess insurance, including limiting the available excess insurance carriers. The Insurance Division suggested a captive as a means with which to provide the aggregate excess, but to retain the earnings. Doug noted that just the possibility of forming a captive for the aggregate excess did open up other markets for PACT. He indicated that the preliminary business plan assumed a $3,000,000 capitalization minimum and that the Insurance Division approved the captive in concept pending a formal submission after approval by the PACT board. Doug responded to questions about the plan. Wayne Carlson commented about the possible uses of the captive for aggregate excess and for certain specific excess layers. He indicated that those options would be discussed under the next agenda item.

Various members of the board expressed agreement with the value of forming a captive. Some suggested at least $5,000,000 be used to capitalize it so that greater retention could be taken.

11. <u>Action Item</u>: Acceptance of Renewal Insurance Proposals and Options

Bob Lombard reviewed the current program structure and the options narrowed down from 16 to 5 by the Executive Committee. He noted options offered opportunities to renew as is and to utilize County Reinsurance, Ltd. (CRL) for a layer. CRL is a captive and has been a partner with POOL for liability coverage and also writes workers compensation coverage. He noted options that would allow a PACT captive to participate either with specific or aggregate excess or both. Wayne Carlson reminded the board of the capitalization strategy analysis and how it supported various options.

12. <u>Action Item:</u> Action regarding these topics as required by Nevada Administrative Code:

- **a. Review of financial condition of each member and prompt notification to the Members of any Member determined to be operating in a hazardous financial condition**
- **b. Review of the loss experience of each Member of the association**

c. **Review for removal of Members with excessive loss experience or Members determined by the Board to be operating in a hazardous condition**

Alan Kalt commented that his sits on the Local Government Finance Committee and was aware of financial concerns for a few members, but that White Pine County was working its way out of problems with the support of the Department of Taxation and that the others were under ongoing review for improvements. He reminded the board that they had seen the loss experience for each member in the board packet.

13. <u>Action Item:</u> Election of Executive Committee

a. **One representative from Counties and/or Cities with less than 35,000 population for a two year term from 2007-2009**
b. **Two representatives from Counties and/or Cities with 35,000 or more in population for two year terms from 2007-2009**
c. **One representative of Special Districts for a two year term from 2007-2009**

Chairman Kalt reviewed the list of Executive Committee members' positions that were up for election and noted that all had expressed interest in continuing. He asked whether any additional persons were interested in being considered. No nominations were suggested by the board.

14. <u>Action Item:</u> Election of Chairman and Vice Chairman

Chairman Kalt indicated that his position and Cash Minor as Vice Chairman were up for election and noted that they were interested in continuing. He asked whether any additional persons were interested in being considered. No nominations were suggested by the board.

15. Public Comment

Staff was asked to inform the board of the final decisions of the Executive Committee next week.

16. <u>Action Item</u>: Adjournment

The meeting was adjourned at 12:31 p.m.