

# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREW SNITZER and PAUL LIVANT, individually  
and as representatives of a class of similarly situated  
persons, on behalf of the American Federation of  
Musicians and Employers' Pension Plan,

Plaintiffs,

v.

THE BOARD OF TRUSTEES OF THE AMERICAN  
FEDERATION OF MUSICIANS AND EMPLOYERS'  
PENSION FUND, THE INVESTMENT COMMITTEE  
OF THE BOARD OF TRUSTEES OF THE  
AMERICAN FEDERATION OF MUSICIANS AND  
EMPLOYERS' PENSION FUND, RAYMOND M.  
HAIR, JR., AUGUSTINO GAGLIARDI, GARY  
MATTS, WILLIAM MORIARITY, BRIAN F. ROOD,  
LAURA ROSS, VINCE TROMBETTA, PHILLIP E.  
YAO, CHRISTOPHER J.G. BROCKMEYER,  
MICHAEL DEMARTINI, ELLIOT H. GREENE,  
ROBERT W. JOHNSON, ALAN H. RAPHAEL,  
JEFFREY RUTHIZER, BILL THOMAS, JOANN  
KESSLER, MARION PRESTON,

Defendants.

No. 1:17-cv-5361 (VEC)

**CLASS ACTION SETTLEMENT AGREEMENT**

This CLASS ACTION SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into between and among, on the one hand, the Class Representatives, on behalf of themselves, all Class Members, and the Plan, and, on the other hand, the Defendants, as defined herein.

**1. RECITALS**

- 1.1 On July 14, 2017, the Class Representatives, on behalf of themselves and a class of other similarly situated participants and beneficiaries of the American Federation of Musicians and Employers' Pension Plan (the "Plan"), filed a Class Action Complaint (the "Complaint"), on behalf of the Plan, in the United States District Court for the Southern District of New York titled *Snitzer and Livant v. The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund et al.*, No. 17-cv-05361 (VEC) (the "Action");
- 1.2 Thereafter, and including in response to defendants' motion to dismiss, the Class Representatives amended the Complaint to add and subtract defendants and allegations. As a

result, the operative complaint became the Amended Class Action Complaint (the “Amended Complaint”) filed on December 1, 2017, naming as defendants The Board of Trustees of the American Federation of Musicians and Employers’ Pension Fund (the “Board of Trustees”), The Investment Committee of The Board of Trustees of the American Federation of Musicians and Employers’ Pension Fund (the “Investment Committee”), as well as then-existing and former individual Board and Investment Committee members Raymond M. Hair, Jr., Augustino Gagliardi, Gary Matts, William Moriarity, Brian F. Rood, Laura Ross, Vince Trombetta, Phillip E. Yao, Christopher J.G. Brockmeyer, Michael DeMartini, Elliot H. Greene, Robert W. Johnson, Alan H. Raphael, Jeffrey Ruthizer, Bill Thomas, Marion Preston, and JoAnn Kessler (collectively, the “Defendants”).

- 1.3 The Amended Complaint advanced: (i) two direct claims for breach of fiduciary duty under ERISA stemming from decisions regarding the Plan’s asset allocation, including the decision to allocate Plan assets to investments in emerging market equities and private equity, as well as to allegedly underperforming and costly actively managed investments (Counts I and II); and (ii) one claim for co-fiduciary breach for knowingly participating and failing to remedy the breaches in Counts I and II (Count III).
- 1.4 On January 10, 2018, Defendants filed a motion to dismiss the Amended Complaint for failure to state a claim. By Opinion and Order dated April 8, 2018, the Court granted the motion as to Count III, but denied the motion with respect to Counts I and II.
- 1.5 On May 29, 2018, Defendants filed their Answer to the Amended Complaint, denying all allegations of wrongdoing and liability and advancing certain affirmative and other defenses.
- 1.6 At the conclusion of fact and expert discovery, on September 16, 2019, the Class Representatives and the Defendants jointly requested that the Court certify the Action as a class action pursuant to Fed. R. Civ. Pro. 23(b)(1).
- 1.7 During the course of the Action, the Settling Parties engaged in extensive discovery, including (1) production of over 200,000 pages of documents by Defendants, (2) production of additional documents by the Class Representatives, (3) production of over 200,000 pages of documents by non-parties, including the Plan, (4) twelve depositions of defense fact witnesses, (5) depositions of each of the Class Representatives, (6) ten non-party fact witness depositions, and (7) six expert depositions.
- 1.8 During the course of the Action, the parties engaged in settlement discussions, including through several private mediations with Mediator Robert Meyer, Esq. (the “Mediator”). The Parties ultimately reached an agreement to settle. The terms of the parties’ settlement are memorialized in this Settlement Agreement.
- 1.9 In evaluating the terms of this Settlement Agreement, Class Counsel have also taken into account the fact that: (i) the Plan previously decided to terminate Meketa’s role as an investment consultant when it shifted to an OCIO model to the Plan and that as part of the Settlement, Defendants have agreed to replace Meketa as OCIO monitor; and (ii) two Defendants who are members of the Investment Committee have stated their intention to resign from their positions as trustees within the next eighteen (18) months.
- 1.10 Class Representatives and Class Counsel consider it desirable and in the Plan’s and Class Members’ best interests that the claims in the Action be settled upon the terms set forth below. The Class Representatives and Class Counsel have concluded that such terms are fair,

reasonable, and adequate and that this settlement will result in valuable benefits to the Plan and the Settlement Class. While Class Representatives and Class Counsel believe that the evidence reflected in the deposition testimony, deposition exhibits, and expert reports demonstrate that Defendants breached their duties and as a result caused damage to the Plan, they are mindful that the only practical source of monetary recovery is from the applicable policies issued by the Plan's fiduciary liability insurance carriers and the \$26.85 million monetary recovery represents a significant majority of the remaining limits of those policies that would have been available to pay any judgment obtained at trial and after any appeals.

- 1.11 Defendants continue to deny all allegations of wrongdoing and deny all liability for the allegations and claims made in the Action. Defendants maintain that they are without fault or liability and are settling the Action solely: to avoid litigation costs (both monetary and nonmonetary); in recognition of the fact that the settlement will result in a substantial payment to the Plan from insurance proceeds that might otherwise be consumed by the continued defense of this Action; and to prevent interference with the orderly operation of the Plan at a time when the Plan has been determined to be in critical and declining status within the meaning of the Multiemployer Pension Reform Act of 2014 ("MPRA").
- 1.12 Therefore, the Settling Parties, in consideration of the promises, covenants, and agreements herein described, acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby mutually agree as follows:

## 2. DEFINITIONS

As used in this Settlement Agreement and the Exhibits thereto, unless otherwise defined, the following terms have the meaning specified below:

- 2.1 "Attorneys' Fees and Costs" means the amount awarded by the Court as compensation for the services provided by Class Counsel and the expenses incurred by Class Counsel in connection with the Action, which shall be recovered from the Gross Settlement Amount.
- 2.1 "CAFA" means the Class Action Fairness Act of 2005.
- 2.2 "Class Counsel" means Chimicles Schwartz Kriner and Donaldson-Smith LLP and Shepherd Finkelman Miller & Shah LLP. Chimicles Schwartz Kriner and Donaldson-Smith LLP are "Lead Plaintiffs' Counsel."
- 2.3 "Class Members" means all individuals in the Settlement Class, including the Class Representatives.
- 2.4 "Class Period" means the period from August 9, 2010 through the date the Court issues its Preliminary Approval Order.
- 2.5 "Class Representatives" means Andrew Snitzer and Paul Livant.
- 2.6 "Court" means the United States District Court for the Southern District of New York.
- 2.7 "Defense Counsel" means Proskauer Rose LLP and Cohen Weiss & Simon LLP.

- 2.8 “Fairness Hearing” means the hearing scheduled by the Court to consider (a) any objections from Class Members to the Settlement Agreement, (b) Class Counsel’s petition for Attorneys’ Fees and Costs and for Service Awards for the Class Representatives, and (c) whether to finally approve the Settlement under Federal Rule of Civil Procedure 23.
- 2.9 “Final” when referring to the Final Approval Order or any other judgment or court order means (i) if no appeal is filed, the expiration date of the time provided for filing or noticing of any appeal under the Federal Rules of Civil Procedure, *i.e.*, thirty (30) days after entry of the judgment or order; or (ii) if there is an appeal from the judgment or order, the latter of (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a *writ of certiorari* or other form of review, or the denial of a *writ of certiorari* or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant.
- 2.10 “Final Approval Order” means the order and final judgment approving the Settlement Agreement, implementing the terms of this Settlement Agreement, and dismissing the Action with prejudice as contemplated in Section 5 of this Agreement, which order shall be substantially in the form set out as Exhibit 3. The Parties may agree to additions or modifications to the form of the Final Approval Order as they agree are appropriate at the time that it is submitted to the Court for final approval of the Settlement.
- 2.11 “Independent Settlement Evaluation Fiduciary” means an independent fiduciary who will serve as a fiduciary to the Plan in accordance with Section 4 that has no relationship or interest in any of the Settling Parties.
- 2.12 “Large Taft-Hartley Plans” means employee benefit pension plans that are jointly-administered by employer and union appointed trustees and that hold assets exceeding \$1 billion.
- 2.13 “MPRA Proceeding” means the proceeding surrounding the application made by the Plan on December 30, 2019 to the U.S. Treasury Department for approval to reduce Plan benefits under MPRA.
- 2.14 “Meketa” means Meketa Investment Group and its past, present and future principals, partners, officers, directors, employees and agents. Meketa formerly served as OCIO monitor but as part of this Settlement has been notified it is being removed from this position.
- 2.15 “Neutral Independent Fiduciary Trustee” shall mean Blakeman Crest Advisors LLC, with Andrew Irving performing the services for Blakeman. Blakeman, with Mr. Irving acting for it, has been jointly agreed upon by the Class Representatives and Class Counsel and Defendants to serve in this role (described below in Section 8), following the Settling Parties’ meetings with him and their evaluation and research of his qualifications.

- 2.16 “OCIO” means an Outside Chief Investment Officer. The term OCIO shall refer to the Plan’s current OCIO, *i.e.*, Cambridge Associates, Inc., and any person or entity to succeed Cambridge in performing discretionary investment-related functions for the Plan.
- 2.17 “OCIO Management Date” refers to October 1, 2017, *i.e.*, the date when the OCIO first had Plan assets under management.
- 2.18 “Participants and Beneficiaries” shall have the same meaning as is accorded these terms by ERISA Section 3(7) and (8), 29 U.S.C. §§ 1002(7), (8).
- 2.19 “Plan” means the American Federation of Musicians and Employers’ Pension Plan. The Amended Complaint also refers to the American Federation of Musicians and Employers’ Pension Fund, which is the funding vehicle for the pension benefits provided under the Plan. The Plan and the Fund are both referred to as the “Plan.”
- 2.20 “Preliminary Approval Order” means the order proposed by the Settling Parties and entered by the Court in connection with the Motion for Entry of the Preliminary Approval Order to be filed by Class Representatives through Class Counsel, as described in Section 3.1 and in substantially the form attached hereto as Exhibit 1.
- 2.21 “Released Parties” means (a) each Defendant and the Plan; (b) each Defendant’s predecessors, successors, assigns, past, present, and future employers, affiliates, descendants, spouses, dependents, beneficiaries, marital community, heirs, executors, and administrators; (c) each of the Plan’s past, present and future trustees, fiduciaries, parties in interest, committees and committee members, Executive Directors, employers, employees, service providers, investment vehicles or funds, managers, independent contractors, administrators, actuaries, consultants (including, but not limited to Meketa), accountants, and auditors; and (d) each of the past, present and future agents, representatives, attorneys, experts, advisors, insurers, shareholders, owners, directors, officers, and employees of the individuals and entities in (a) through (c).
- 2.22 “Released Claims” means any and all actual or potential claims, actions, allegations, demands, rights, obligations, liabilities, damages, attorneys’ fees, expenses, costs, and causes of action, whether arising under federal, state or local law, whether by statute, contract or equity, whether brought in an individual, derivative, or representative capacity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, that:
- 2.22.1 were asserted in the Complaint or Amended Complaint or that arise out of, relate in any way to, are based on, or have any connection with any of the factual or legal allegations asserted in the Complaint or Amended Complaint, including, but not limited to, those that arise out of, relate to, are based on, or have any connection with decisions made, prior to the OCIO Management Date, regarding (i) the Plan’s asset allocation and the selection (including of the Plan’s OCIO), retention, monitoring, oversight, compensation, fees, or performance of the Plan’s investments or its investment managers; (ii) investment-related fees, costs, or expenses charged to, paid,

or reimbursed by the Plan; (iii) disclosures or failures to disclose information regarding the Plan's investments and/or funding; or (iv) any alleged breach of the duty of loyalty, care, prudence, diversification, or any other fiduciary duties or prohibited transactions in connection with (i) through (iii) above;

2.22.2 arise out of, relate in any way to, are based on, or have any connection with the approval by the Independent Settlement Evaluation Fiduciary of the Settlement Agreement, unless brought against the Independent Fiduciary alone; or

2.22.3 would be barred by res judicata based on entry by the Court of the Final Approval Order.

Nothing in this Settlement Agreement shall impact or impair any rights that any members of the Settlement Class or participants and/or beneficiaries of the Plan may have in connection with the pending MPRA Proceeding.

2.23 "Resigning Trustees" means the two trustees who are currently members of the Investment Committee and who have communicated their plan to resign from the Plan's Board of Trustees within the next eighteen (18) months.

2.24 "Settlement" means the settlement to be consummated under this Settlement Agreement pursuant to the Final Approval Order.

2.25 "Settlement Class" means the following class to be certified by the Court: All Participants and Beneficiaries of the Plan during the Class Period, excluding Defendants and their Beneficiaries.

2.26 "Settlement Effective Date" means the date on which the Final Approval Order is Final, provided that by such date the Settlement has not been terminated in accordance with Section 11 and provided that any appeal or challenge affecting only the Court's approval regarding any Attorneys' Fees and Costs or Service Awards shall in no way disturb or affect the finality of the other provisions of the Final Approval Order or the Settlement Effective Date.

2.27 "Settlement Notice" means the Notice of Class Action Settlement and Fairness Hearing to be sent to Class Members identified by the Plan following the Court's issuance of the Preliminary Approval Order, in substantially the form attached hereto as Exhibit 2.

2.28 "Settlement Website" means the website at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com), established for purposes of communicating with Class Members about the Settlement.

2.29 "Settling Parties" means the Defendants and the Class Representatives, on behalf of themselves, the Plan, and each of the Class Members.



### 3. PRELIMINARY APPROVAL AND NOTICE TO THE CLASS

- 3.1 Class Representatives, through Class Counsel, shall file with the Court a motion seeking preliminary approval of this Settlement Agreement and for entry of the Preliminary Approval Order in substantially the form attached hereto as Exhibit 1. The Preliminary Approval Order to be presented to the Court shall, among other things:
- (a) Grant the motion to certify the Settlement Class as defined in Section 2.25 under Federal Rule of Civil Procedure 23(b)(1)(A) and/or (B);
  - (b) Approve the text of the Settlement Notice for mailing or sending by electronic means to Class Members to notify them (1) of the Fairness Hearing and (2) that notice of changes to the Settlement Agreement, future orders regarding the Settlement, modifications to the Settlement Notice, changes in the date or timing of the Fairness Hearing, or other modifications to the Settlement may be provided to the Class through the Settlement Website without requiring additional mailed or electronic notice;
  - (c) Determine that under Federal Rule of Civil Procedure 23(c)(2), the Settlement Notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Federal Rule of Civil Procedure 23, the Constitution of the United States, and any other applicable law;
  - (d) Cause the Plan to send the Settlement Notice by electronic means and/or mail to each Class Member identified by the Plan based on a review of its records (as specified further below in Sections 3.2 and 3.3);
  - (e) Preliminarily enjoin Class Members and the Plan from commencing, prosecuting, or pursuing any claim or complaint that arises out of or relates in any way to the Released Claims;
  - (f) Set the Fairness Hearing for no less than one hundred and ten (110) calendar days after the date of the Preliminary Approval Order in order to determine whether (i) the Court should approve the Settlement as fair, reasonable, and adequate, (ii) the Court should enter the Final Approval Order, and (iii) the Court should approve the application for Attorneys' Fees and Costs and Service Awards for the Class Representatives;
  - (g) Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been filed validly with the Clerk of the Court; and that, to be filed validly, the objection and any notice of intent to appear or supporting documents must be filed at least thirty (30) calendar days prior to the scheduled Fairness Hearing.
  - (h) Provide that any Settling Party may file a response to an objection by a Class Member;



- (i) Provide that the Fairness Hearing may, without further direct notice to the Class Members, other than by notice to Class Counsel, be adjourned or continued by order of the Court, as long as notice of the same is posted on the Settlement Website; and
- (j) Approve the Form of CAFA Notices attached as Exhibit 4 and order that upon mailing of the CAFA notices, the Defendants shall have fulfilled their obligations under CAFA.

- 3.2 Within thirty (30) calendar days of the entry of the Preliminary Approval Order or as may be modified by the Court, the Plan shall cause to be provided to each Class Member a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit 2 or a form subsequently agreed to by the Settling Parties and the Court. The Settlement Notice shall be sent to the last known address, or e-mail address if sent electronically, of each Class Member on record with the Plan. For Participants and Beneficiaries in the Settlement Class who reside at the same address, a single mailing or email shall suffice.
- 3.3 The Settling Parties agree that, in recognition that the Plan lacks either an email or mailing address for 21,881 Class Members (out of a total of 114,285), the following documents or links to the following documents will be posted to the Settlement Website as soon as practicable following the date of the Preliminary Approval Order: the Complaint, the Amended Complaint, the Settlement Agreement and its Exhibits, Plaintiffs' Motion for Preliminary Approval and any response thereto by Defendants, the Settlement Notice, Class Representatives' Motion for Attorneys' Fees, Costs and Service Awards and any response thereto by Defendants, any Court orders related to the Settlement, any amendments or revisions to these documents, any responses by the Settling Parties to any objections that may be filed, and any other documents or information mutually agreed upon by the Settling Parties. No other information or documents will be posted on the Settlement Website unless agreed to in advance by the Settling Parties in writing or as ordered by the Court.

#### **4. REVIEW AND APPROVAL BY INDEPENDENT SETTLEMENT EVALUATION FIDUCIARY**

- 4.1 The Plan shall retain an Independent Settlement Evaluation Fiduciary, who has been agreed to by the Class Representatives. The Independent Fiduciary shall have the following responsibilities, including whether to approve and authorize the settlement of Released Claims on behalf of the Plan.
- (a) The Independent Settlement Evaluation Fiduciary shall review the Settlement and comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, "Release of Claims and Extensions of Credit in Connection with Litigation," issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended ("PTE 2003-39") in making its determination, for the purpose of Defendants' reliance on PTE 2003-39.
  - (b) The Independent Settlement Evaluation Fiduciary shall notify the Defendants (with copies to Class Counsel and Defense Counsel) directly of its determination in writing, which

notification shall be delivered no later than thirty (30) calendar days before the Fairness Hearing.

- (c) Defendants, Defense Counsel, and Class Counsel shall respond to reasonable requests by the Independent Settlement Evaluation Fiduciary for information so that the Independent Settlement Evaluation can review and evaluate the Settlement Agreement.
- (d) Within fifteen (15) calendar days of receipt of the written determination by the Independent Settlement Evaluation Fiduciary, Defendants shall (a) review the determination by the Independent Fiduciary, (b) conclude whether the Independent Settlement Evaluation Fiduciary has made the determinations required by PTE 2003-39, and (c) notify Class Counsel in writing of its conclusion in that regard.

## **5. FINAL SETTLEMENT APPROVAL**

- 5.1 No later than fourteen (14) calendar days before the Fairness Hearing, or no later than a date set by the Court in its Preliminary Approval Order, Class Counsel shall submit to the Court a mutually agreed upon motion for entry of the Final Approval Order (Exhibit 3) in the form approved by Class Counsel and Defense Counsel, which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Approval Order in accordance with this Settlement Agreement. The Final Approval Order as proposed shall provide for the following, among other things:
- (a) Approval of the Settlement covered by this Settlement Agreement, adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plan and the Class Members, and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;
  - (b) A determination under Federal Rule of Civil Procedure 23(c)(2) that the Settlement Notice constituted the best notice practicable under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members was provided;
  - (c) Dismissal with prejudice of the Action and all Released Claims asserted therein whether asserted by Class Representatives on their own behalf or on behalf of the Class Members, or on behalf of the Plan, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;
  - (d) That the dismissal with prejudice shall cover certain defendants who were previously dismissed from the Action without prejudice;
  - (e) That the Class Representatives, Class Members and the Plan shall be (i) deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged all Released Claims against the Released Parties in the manner(s) set forth in the Settlement Agreement; and (ii) permanently barred and enjoined from asserting, commencing,

prosecuting, or continuing any of the Released Claims in the manner(s) set forth in the Settlement Agreement.

(f) That Defendants and each Class Member shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged any claims against the Class Representatives or Class Counsel, that arise out of the institution, prosecution, settlement or dismissal of the Action.

(g) That all applicable CAFA requirements have been satisfied.

5.2 The Final Approval Order and judgment entered by the Court approving the Settlement Agreement shall provide that, upon its entry, all Settling Parties, the Settlement Class, and the Plan shall be bound by the Settlement Agreement and by the Final Approval Order.

## 6. PAYMENT OF THE SETTLEMENT AMOUNT

6.1 Defendants have agreed to settle the Action for a monetary payment of twenty-six million and eight hundred and fifty thousand dollars (\$26,850,000) (the “Gross Settlement Amount”). This amount shall be the full and sole monetary payment made by or on behalf of the Defendants in connection with the Settlement effectuated through this Settlement Agreement. As described further below in Section 7.1, Class Representatives have reserved the right to seek up to \$9,850,000 in Attorneys’ Fees and Costs and \$20,000 in Service Awards, but have agreed that any Service Awards will be payable out of any awarded Attorneys’ Fees and Costs, rather than from the Gross Settlement Amount. If these sums are awarded, the net recovery to the Plan, from the Gross Settlement Amount, will be seventeen million dollars (\$17,000,000).

6.2 Except as provided in Section 6.2.1, within thirty (30) calendar days after the later of the Settlement Effective Date or the date any order with respect to Attorneys’ Fees and Costs and Service Awards is Final, Defendants will cause the Plan’s primary fiduciary liability insurance carrier to pay Attorneys’ Fees and Costs (inclusive of any Service Awards) to Class Counsel as awarded by the Court; and Defendants will cause the Plan’s fiduciary liability insurance carriers to pay the remaining balance of the Gross Settlement Amount to the Plan. The Attorneys’ Fees and Costs (inclusive of Service Awards) will be deducted from and are not in addition to the Gross Settlement Amount.

6.2.1 **Payments During Appeal:** In the event of an appeal or challenge to the Final Approval Order or the award of Attorneys’ Fees and Costs and Service Awards provided for therein, Class Counsel may require Defendants’ primary fiduciary liability insurance carrier to pay to Class Counsel the Attorneys’ Fees and Costs (inclusive of Service Awards) awarded by the Court within seventy-five (75) calendar days after entry of the Final Approval Order provided that (1) Class Counsel provide, within forty-five (45) days of the time the Final Approval Order is entered, written notice of such demand and include all necessary payment and routing information to facilitate the transfer; and (2) if Defendants’ primary fiduciary liability insurance carrier requires a letter of credit from Class Counsel that provides the carrier reasonable security, that letter of credit has

been provided no less than five (5) business days before payment is due. Any disputes regarding the reasonableness of such a request or the security provided by any letter of credit shall be decided by Mediator Robert Meyer Esq. of JAMS. In the event that payments are made to Class Counsel pursuant to this provision following an appeal or challenge affecting only the Court's approval regarding any Attorneys' Fees and Costs or Service Awards, Defendants will cause the Plan's fiduciary liability insurance carriers to pay the remaining balance of the Gross Settlement Amount to the Plan within forty-five (45) days after payments to Class Counsel are made pursuant to this provision.

- 6.2.2 Refund or Repayment Obligation for Attorneys' Fees and Costs and Service Awards.** The payment of Attorneys' Fees and Costs (inclusive of Service Awards) shall be subject to Class Counsel's joint and several obligation to make appropriate and prompt refunds or repayments of the applicable portion of the Attorneys' Fees and Costs and Service Awards received plus interest at the average of 30-day Treasuries over the relevant period, if the Settlement Agreement is properly and timely terminated in accordance with its terms, or as a result of any further proceedings or collateral attack, the Attorneys' Fees and Costs or Service Awards is vacated or the amount of such award is reduced. If the Settlement Agreement is terminated, payment shall be refunded to the appropriate carriers. If only the Attorneys' Fees and Costs or Service Awards order is vacated or the amount of such award is reduced, refund shall be made to the Plan.
- 6.2.3 Distribution of Attorneys' Fees and Costs.** Lead Plaintiffs' Counsel Chimicles Schwartz Kriner & Donaldson-Smith LLP shall have sole responsibility and discretion to distribute the Attorneys' Fees and Costs amongst Class Counsel.

## **7. ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS**

- 7.1** Class Counsel will file a motion for an award of Attorneys' Fees (not to exceed one-third of the Gross Settlement Amount or \$8,950,000) and Class Counsel's litigation Costs (not to exceed \$900,000) and Service Awards (not to exceed \$10,000 for each of the Class Representatives) no later than thirty (30) calendar days before the deadline set in the Preliminary Approval Order for objections to the proposed Settlement, which may be supplemented thereafter. The motion will specify that any Service Awards are payable out of Attorneys' Fees and Costs rather than the Gross Settlement Amount, so that the maximum amount being sought from the Gross Settlement Amount is \$9,850,000.
- 7.2** Defendants reserve all rights to oppose Class Counsel's application for Attorneys' Fees and Costs and Class Representatives' application for Service Awards.

## **8. GOVERNANCE PROVISIONS**

- 8.1** The Plan's Board of Trustees agrees that, as further consideration to settle the Action, the following governance provisions shall become operative no later than thirty (30) calendar

days after the Settlement Effective Date:

- 8.1.1 Replace the Resigning Trustees with two new trustees who were not previously members of the Plan's Board of Trustees and who will serve on the Investment Committee once the Resigning Trustees have formally resigned;
- 8.1.2 Arrange to be posted on the Plan's website at [www.afm-epf.org](http://www.afm-epf.org): a quarterly investment report, in substantially the same form as Exhibit 5, prepared by the OCIO comparing the Plan's asset allocation to the asset allocation of Large Taft-Hartley Plans and containing a running cumulative comparison of Plan's actual equity performance since October 2017 versus an appropriate index benchmark;
- 8.1.3 Select a replacement for Meketa to serve as OCIO monitor in accordance with a Request for Proposal ("RFP") process described in Exhibit 6. As part of the RFP process, the Neutral Independent Fiduciary Trustee will be responsible for advising the RFP selected candidates of the claims that were asserted in the Action relating to asset allocation and the use of actively managed funds based on the Neutral Independent Fiduciary Trustee's review of certain lawsuit materials including the parties' respective expert reports.
- 8.1.4 Adopt asset allocation procedures such that the Board of Trustees retains responsibility for setting the asset allocation policy, subject to the following procedures: the investment consultant who will be retained (in lieu of Meketa) to periodically review the performance of the OCIO will also be charged with providing proposed asset allocation targets for the OCIO, subject to: (i) instructions from the Trustees on the Plan's investment return and risk objectives, and (ii) the Trustees' right to veto any proposed targets, in which case the consultant will be responsible for selecting other targets. The Board minutes will include the consultant's written description of his or her rationale for proposing both sets of targets, including any considerations against implementing them, as well as the Trustees' grounds for vetoing the initial set of targets, and the consultant shall be permitted to review and comment on the full description of the relevant discussion in the relevant portion of the minutes;
- 8.1.5 Appoint the Neutral Independent Fiduciary Trustee to serve as an additional, nonvoting, neutral trustee. The Neutral Independent Fiduciary Trustee shall serve as (i) a nonvoting member of the Investment Committee; (ii) an advisory resource to the voting members of the Investment Committee Trustees, including the Investment Committee co-chairs.
  - 8.1.5.1 In addition, the Neutral Independent Fiduciary shall have the following responsibilities:
    - a. Work with, and provide input to, the Union- and Employer-side Co-Chairs of the Investment Committee in fulfilling their functions and responsibilities as Co-Chairs.
    - b. Have complete access to the information available to the Union- and

Employer-side Co-Chairs of the Investment Committee, and function in all respects (other than voting authority) as those Co-Chairs;

- c. Participate in Investment Committee meetings, deliberations and decisions, with all the authority and responsibilities of a Trustee with respect to the Plan's investments (other than voting authority);
- d. Participate in the portion of the Board meetings, deliberations and decisions, with all the authority and responsibilities of a Trustee, related to the Plan's investments (other than voting authority);
- e. Be responsible to state his/her assessment, including his/her reasoning for such assessment, for all matters under deliberation or subject to a decision or vote related to the Investment Committee (including asset management and allocation);
- f. Make recommendations, at least annually, regarding changes (if any) in the processes pursuant to which the Investment Committee performs its responsibilities;
- g. In coordination with the Trustees and the OCIO, prepare a written report regarding possible changes to the Plan's Investment Policy Statement;
- h. Have such other responsibilities as appropriate based on input from the prospective Neutral Independent Fiduciary Trustee.

8.1.5.2 Subject to 8.1.5.3 below, the Neutral Independent Fiduciary Trustee shall be retained for a four-year term commencing from the effective date of his engagement (whether it is before or after the Settlement Effective Date). At the conclusion of the four-year term, the Neutral Independent Fiduciary Trustee shall determine whether the four-year term should be extended for an additional year.

8.1.5.3 The Board of Trustees shall retain the power to remove the Neutral Independent Fiduciary Trustee for "good cause" (which shall mean a failure to adequately perform the responsibilities and functions set forth above, but which shall not include making recommendations adverse to the decisions of the Trustees) after vote, on the record, of a majority of the Employer-side Trustees and Union-side Trustees. Should the Neutral Independent Fiduciary Trustee be removed, the Board of Trustees shall appoint another Neutral Independent Fiduciary Trustee to serve out the remainder of the term pursuant to procedures attached as Exhibit 7.

8.1.6. At least four weeks before the effective date of any new Trustees' appointment to serve on the Board, the Trustees shall post on the Plan's website the identity of such new Trustees along with their bios and any other experience relevant to their qualifications to



serve as a Trustee. The Plan Website will also provide a description of the training or education any new Trustees will receive. Notwithstanding the foregoing, if the President of the American Federation of Musicians changes, notice shall be provided of new Union Trustee appointments as soon as practicable under the circumstances. In addition, in the case of a resignation, death, or incapacity of a Trustee within four weeks of a previously scheduled Trustees meeting, notice of the replacement Trustee will be posted as soon as practicable.

## **9. RELEASES AND COVENANTS NOT TO SUE**

- 9.1. As of the Settlement Effective Date, the Class Representatives and the Class Members (on behalf of themselves and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns), on their own behalves and on behalf of the Plan, shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged all Released Parties from the Released Claims, regardless of whether or not such Class Members receive a monetary benefit from the Settlement, filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs and Service Awards, and whether or not the objections have been allowed. Class Members and Defendants shall also be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged any claims against the Class Representatives or Class Counsel, that arise out of the institution, prosecution, settlement or dismissal of the Action.
- 9.2. As of the Settlement Effective Date, the Plan (subject to Independent Settlement Evaluation Fiduciary approval as required by Section 4.1) shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged all Released Parties from the Released Claims.
- 9.3. Notwithstanding anything in Section 9.1 and 9.2, the release of future entities or persons included among the Released Parties in Section 2.22 shall be limited to those Released Claims that are based on conduct preceding the Settlement Effective Date.
- 9.4. As of the Settlement Effective Date, the Class Representatives and the Class Members (on behalf of themselves and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns), on their own behalves and on behalf of the Plan and the Plan (subject to Independent Settlement Evaluation Fiduciary approval as required by Section 4.1), expressly agree that they, acting individually or together, or in combination with others, shall not sue or seek to institute, maintain, prosecute, argue, or assert in any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration or a proceeding before any state insurance or other department or commission), any cause of action, demand, or claim on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Settlement Agreement. As set forth above, nothing in this Settlement Agreement shall impact or impair any rights that any members of the Settlement Class or participants and/or beneficiaries of the Plan may have in connection with the pending MPRA



Proceeding.

- 9.5. Class Counsel, the Class Representatives, Class Members, or the Plan may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, the Class Representatives, Class Members, and the Plan shall expressly, upon the entry of the Final Approval Order, be deemed to have, and, by operation of the Final Approval Order, shall have fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Representatives, Class Members, and the Plan acknowledge and shall be deemed by operation of the Final Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part. Defendants and the Plan acknowledge and shall be deemed by operation of the Final Approval Order to have acknowledged that nothing in this Settlement Agreement shall impact or impair any rights that any members of the Settlement Class or participants and/or beneficiaries of the Plan may have in connection with the pending MPRA Proceeding.
- 9.6. With respect to the Released Claims, it is the intention of the Settling Parties and all other Class Members and the Plan expressly to waive to the fullest extent of the law: (i) the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides that “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party”; and (ii) the provisions, rights and benefits of any similar statute or common law of any other jurisdiction that may be, or may be asserted to be, applicable.
- 9.7. Notwithstanding the foregoing releases, nothing in Section 9 above or elsewhere in this Settlement Agreement shall release, impact or impair any rights that the fiduciary liability insurers of the Plan and the Defendants may have by way of subrogation claims against any Released Parties under any insurance policy.

## **10. REPRESENTATIONS AND WARRANTIES**

10.1. The Settling Parties represent:

- (a) That they are voluntarily entering into this Settlement Agreement as a result of arm's length negotiations among their counsel, and that in executing this Settlement Agreement they are relying solely upon their own judgment, belief, and knowledge, and upon the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof;

- (b) That they assume the risk of mistake as to facts or law;
- (c) That they recognize that additional evidence may have come to light, but that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement;
- (d) That they have read carefully the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each individual executing this Settlement Agreement on behalf of each of the Settling Parties; and
- (e) That they have made such investigation of the facts pertaining to the Settlement and all matters pertaining thereto, as they deem necessary.

10.2 Each individual executing this Settlement Agreement on behalf of a Settling Party does hereby personally represent and warrant to the other Settling Parties that he/she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal that each such individual represents or purports to represent.

#### **11. TERMINATION, CONDITIONS OF SETTLEMENT, AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION**

11.1. The Settlement Agreement shall automatically terminate, and thereby become null and void with no further force or effect if:

- (a) Under Section 4.1, (1) either the Independent Settlement Evaluation Fiduciary does not approve the Settlement, or disapproves the Settlement for any reason whatsoever or the Defendants reasonably conclude that the Independent Settlement Evaluation Fiduciary's approval does not include the determinations required by PTE 2003-39 in either case; and (2) the Settling Parties do not mutually agree to modify the terms of the Settlement to facilitate an approval by the Independent Settlement Evaluation Fiduciary or the Independent Settlement Evaluation Fiduciary's determinations required by PTE 2003-39;
- (b) The Preliminary Approval Order or the Final Approval Order are not entered by the Court substantially in the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties;
- (c) The Settlement Class is not certified as defined herein or in a form which is otherwise agreed to by the Settling Parties;
- (d) This Settlement Agreement is disapproved by the Court or fails to become effective for any reason whatsoever; or
- (e) The Preliminary Approval Order or Final Approval Order is finally reversed on appeal, or is modified on appeal, and the Settling Parties do not mutually agree to any such modifications.

- 11.2. If the Settlement Agreement is terminated, deemed null and void, or has no further force or effect, the Action and the Released Claims asserted by Class Representatives shall for all purposes with respect to the Settling Parties revert to their status as though the Settling Parties never executed the Settlement Agreement and the provisions of Section 6.2.2 regarding the refund or repayment of Attorneys' Fees and Costs shall apply.
- 11.3. It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Representatives' Service Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Service Awards accordingly.

## **12. NO ADMISSION OF WRONGDOING**

- 12.1. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of any Released Party of any wrongdoing, fault, or liability whatsoever by any Released Party, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Action or any other proceeding, and the Defendants and Released Parties admit no wrongdoing, fault or liability with respect to any of the allegations or claims in the Action.
- 12.2. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder, shall not constitute admissions of any liability of any kind, whether legal or factual. Subject to Federal Rule of Evidence 408, the Settlement and the negotiations related to it are not admissible as substantive evidence, for purposes of impeachment, or for any other purpose. Defendants deny all allegations of wrongdoing and deny all allegations and claims in the Action. Defendants contend that the Plan has been managed, operated, and administered at all relevant times in accordance with ERISA, including its fiduciary duty provisions.

## **13. GENERAL PROVISIONS**

- 13.1 The Settling Parties agree to cooperate fully with each other in seeking Court approval of the Preliminary Approval Order and the Final Approval Order, and to do all things as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms.
- 13.2 This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, by New York law.
- 13.3 Each Settling Party to this Settlement Agreement hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that Settling Party by

his, her, or its counsel.

- 13.4 Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Sections they caption.
- 13.5 References to a person are also to the person's permitted successors and assigns, except as otherwise provided herein.
- 13.6 Whenever the words "include," "includes" or "including" are used in this Settlement Agreement, they shall not be limiting but shall be deemed to be followed by the words "without limitation."
- 13.7 Before entry of the Preliminary Approval Order and approval of the Independent Settlement Evaluation Fiduciary, this Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties. Following approval by the Independent Settlement Evaluation Fiduciary, the Settlement Agreement may be modified or amended only if such modification or amendment is set forth in a written agreement signed by or on behalf of all Settling Parties and only if the Independent Settlement Evaluation Fiduciary approves such modification or amendment in writing. Following entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Settling Parties, and only if the modification or amendment is approved by the Independent Settlement Evaluation Fiduciary in writing and approved by the Court.
- 13.8 This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any Settling Party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto.
- 13.9 The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any Settling Party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other Settling Party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.
- 13.10 Each of the Settling Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement.
- 13.11 All of the covenants, representations, and warranties, express or implied, oral or written, concerning the subject matter of this Settlement Agreement are contained in this Settlement Agreement. No Settling Party is relying on any oral representations or oral agreements. All such covenants, representations, and warranties set forth in this Settlement Agreement shall

be deemed continuing and shall survive the Settlement Effective Date.

- 13.12 All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: Exhibit 1 - Preliminary Approval Order; Exhibit 2 - Notice of Class Action Settlement; Exhibit 3 - Final Approval Order; Exhibit 4- Form of CAFA Notice; Exhibit 5 – Website Disclosure; Exhibit 6 – OCIO RFP Process; Exhibit 7 – Replacement of Neutral Independent Fiduciary Trustee.
- 13.13 No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the disadvantage of any Settling Party to the Settlement Agreement because that Settling Party is deemed to have prepared, structured, drafted, or requested the provision.
- 13.14 Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier;

IF TO THE CLASS REPRESENTATIVES:

Steven A. Schwartz  
CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP  
One Haverford Centre  
361 West Lancaster Avenue  
Haverford, PA 19041  
[sas@chimicles.com](mailto:sas@chimicles.com)

-and-

Robert J. Kriner, Jr.  
CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP  
2711 Centerville Road, Suite 201  
Wilmington, DE 19808  
[rjk@chimicles.com](mailto:rjk@chimicles.com)

IF TO DEFENDANTS:

Myron D. Rumeld  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036  
[mrumeld@proskauer.com](mailto:mrumeld@proskauer.com)

and

Jani K. Rachelson  
COHEN WEISS & SIMON LLP  
900 Third Avenue, Suite 2100  
New York, NY 10022-4869  
[jrachelson@cwsny.com](mailto:jrachelson@cwsny.com)

- 13.15 This Agreement may be executed in one or more counterparts. All executed copies of this Agreement and photocopies thereof (including emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.
- 13.16 The Settling Parties agree that Defendants' Counsel, Myron D. Rumeld, has been authorized to execute the Settlement Agreement on behalf of the Defendants. Signatures for the Defendants themselves will be collected as soon as reasonably practicable, but will not impact the enforceability of the Settlement Agreement or delay its approval.
- 13.17 The Settling Parties agree that the Court shall maintain continuing jurisdiction over the Settlement proceedings to assure the effectuation thereof for the benefit of the Settlement Class.

SIGNED ON BEHALF OF CLASS REPRESENTATIVES, Paul Livant and Andy Snitzer, For Themselves and as Class Representatives:

Dated: Mar 25, 2020

  
PAUL LIVANT

Dated: \_\_\_\_\_

\_\_\_\_\_  
ANDREW SNITZER

and

Jani K. Rachelson  
COHEN WEISS & SIMON LLP  
900 Third Avenue, Suite 2100  
New York, NY 10022-4869  
[jrachelson@cwsny.com](mailto:jrachelson@cwsny.com)

- 13.15 This Agreement may be executed in one or more counterparts. All executed copies of this Agreement and photocopies thereof (including emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.
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- 13.17 The Settling Parties agree that the Court shall maintain continuing jurisdiction over the Settlement proceedings to assure the effectuation thereof for the benefit of the Settlement Class.

SIGNED ON BEHALF OF CLASS REPRESENTATIVES, Paul Livant and Andy Snitzer, For Themselves and as Class Representatives:

Dated: \_\_\_\_\_

\_\_\_\_\_  
PAUL LIVANT

Dated: Mar 25, 2020

  
\_\_\_\_\_  
ANDREW SNITZER



FOR DEFENDANTS:

Dated: March 25, 2020



\_\_\_\_\_  
Myron D. Rumeld  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036

Dated: \_\_\_\_\_

\_\_\_\_\_  
RAYMOND M. HAIR, JR.  
For Himself and as Board Co-Chair

Dated: \_\_\_\_\_

\_\_\_\_\_  
AUGUSTINO GAGLIARDI

Dated: \_\_\_\_\_

\_\_\_\_\_  
GARY MATTS

Dated: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM MORIARITY

Dated: \_\_\_\_\_

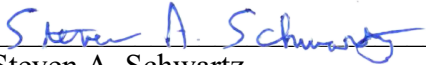
\_\_\_\_\_  
BRIAN F. ROOD  
For Himself and as Investment  
Committee Co-Chair

Dated: \_\_\_\_\_

\_\_\_\_\_  
LAURA ROSS


**APPROVED AS TO FORM AND CONTENT:**

Dated: March 25, 2020

  
Steven A. Schwartz  
CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP  
One Haverford Centre  
361 West Lancaster Avenue  
Haverford, PA 19041

*Counsel for the Class Representatives  
and the Class*

Dated: March 25, 2020

  
Myron D. Rumeld  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jani K. Rachelson  
COHEN WEISS & SIMON LLP  
900 Third Avenue, Suite 2100  
New York, NY 10022-4869

*Counsel for Defendants*

**APPROVED AS TO FORM AND CONTENT:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Steven A. Schwartz  
CHIMICLES SCHWARTZ KRINER  
& DONALDSON-SMITH LLP  
One Haverford Centre  
361 West Lancaster Avenue  
Haverford, PA 19041

*Counsel for the Class Representatives  
and the Class*

Dated: \_\_\_\_\_

\_\_\_\_\_  
Myron D. Rumeld  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036

Dated: March 25, 2020

  
\_\_\_\_\_  
Jani K. Rachelson  
COHEN WEISS & SIMON LLP  
900 Third Avenue, Suite 2100  
New York, NY 10022-4869

*Counsel for Defendants*

# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREW SNITZER and PAUL LIVANT, individually  
and as representatives of a class of similarly situated  
persons, on behalf of the American Federation of  
Musicians and Employers' Pension Plan,

Plaintiffs,

v.

THE BOARD OF TRUSTEES OF THE AMERICAN  
FEDERATION OF MUSICIANS AND EMPLOYERS'  
PENSION FUND, THE INVESTMENT COMMITTEE  
OF THE BOARD OF TRUSTEES OF THE  
AMERICAN FEDERATION OF MUSICIANS AND  
EMPLOYERS' PENSION FUND, RAYMOND M.  
HAIR, JR., AUGUSTINO GAGLIARDI, GARY  
MATTS, WILLIAM MORIARITY, BRIAN F. ROOD,  
LAURA ROSS, VINCE TROMBETTA, PHILLIP E.  
YAO, CHRISTOPHER J.G. BROCKMEYER,  
MICHAEL DEMARTINI, ELLIOT H. GREENE,  
ROBERT W. JOHNSON, ALAN H. RAPHAEL,  
JEFFREY RUTHIZER, BILL THOMAS, JOANN  
KESSLER, MARION PRESTON,

Defendants.

No. 1:17-cv-5361 (VEC)

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT, PROVISIONALLY CERTIFYING  
SETTLEMENT CLASS, DIRECTING NOTICE TO THE SETTLEMENT CLASS,  
AND SCHEDULING FAIRNESS HEARING**

WHEREAS, Plaintiffs Andy Snitzer and Paul Livant, individually and on behalf of all Class Members and the American Federation of Musicians and Employers' Pension Plan (the "Plan"), and Defendants The Board of Trustees of the American Federation of Musicians And Employers' Pension Fund (the "Board of Trustees"), The Investment Committee of The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund (the "Investment Committee"), Raymond M. Hair, Jr., Augustino Gagliardi, Gary Matts, William Moriarity, Brian

F. Rood, Laura Ross, Vince Trombetta, Phillip E. Yao, Christopher J.G. Brockmeyer, Michael DeMartini, Elliot H. Greene, Robert W. Johnson, Alan H. Raphael, Jeffrey Ruthizer, Bill Thomas, Marion Preston, and JoAnn Kessler (collectively, the “Defendants”) (together with Plaintiffs, the “Parties”), have agreed to settle the above-captioned matter (the “Action”) on the terms and conditions set forth in the Settlement Agreement dated March 25, 2020 and all exhibits thereto;

WHEREAS, Plaintiffs have filed a motion for an order that *inter alia*, (1) certifies the proposed class for Settlement purposes; (2) preliminarily approves the Settlement on the terms set forth in the Settlement Agreement; (3) approves and authorizes the dissemination of notice to members of the Settlement Class per the approved form and method of notice; (4) establishes deadlines and procedures for members of the Settlement Class to object to the Settlement; and (5) sets various deadlines and schedules a hearing to determine whether the Settlement should be finally approved as fair, reasonable and adequate, and whether an order finally approving the Settlement Agreement should be entered;

WHEREAS, Defendants do not agree with many of the factual representations and/or characterizations made in Plaintiffs’ memorandum in support of their motion, but do not oppose the motion insofar as it seeks this Court’s preliminary approval of the Settlement;

WHEREAS, the Court, having read and considered the motion, the memorandum submitted in support of the motion, the Settlement Agreement and the exhibits thereto, finds that substantial and sufficient grounds exist for entering this Order Preliminarily Approving Class Action Settlement, Provisionally Certifying Settlement Class, Directing Notice to Settlement Class, and Scheduling Fairness Hearing (“Preliminary Approval Order”);

WHEREAS, the Court has adopted and incorporated the definitions and terms set forth in the Settlement Agreement; and

WHEREAS, upon review and consideration of the foregoing materials, the Court has found good cause for entering this Preliminary Approval Order;

NOW, THEREFORE, IT IS ORDERED THAT:

**I. CERTIFICATION OF SETTLEMENT CLASS**

The Settlement Agreement provides for a class action settlement of the claims alleged in this Action. The Court has considered the (1) allegations, information, arguments, and authorities provided by the Parties in connection with pleadings previously filed in this case; (2) information, arguments, and authorities provided by Plaintiffs in their brief in support of their motion for entry of an order granting preliminary approval of the Settlement; and (3) the terms of the Settlement Agreement, including, but not limited to, the benefits to be provided to the Settlement Class; and (4) the Parties' joint motion to certify a litigation class pursuant to Fed. R. Civ. P. 23(b)(1)(A) and 23(b)(1)(B) with a supporting memorandum of law. *See* ECF #130. Based on those considerations, the Court hereby finds as follows:

A. That the prerequisites for a class action under Rules 23(b)(1)(A) and 23(b)(1)(B) of the Federal Rules of Civil Procedure have been satisfied. The Court finds, in the specific context of this Settlement, that the following requirements are met: (a) the number of Class Members is over 100,000 and is so numerous that joinder of all Class Members is impracticable; (b) there are questions of law and fact common to the Class Members; (c) Plaintiffs' claims are typical of the claims of the Class Members they seek to represent for purposes of this Settlement; (d) Plaintiffs and Class Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so; (e) prosecuting separate actions would create a risk of inconsistent or varying adjudications with respect to individual Class Members that would establish incompatible standards of conduct for Defendants; (f) Defendants have acted on grounds that apply generally to the Settlement Class, so that the benefits provided in the Settlement Agreement are appropriate for



the Settlement Class as a whole; (g) questions of law and fact common to the Class Members predominate over any questions affecting any individual Settlement Class Member; and (h) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23.

B. The Court also concludes that, because the Action is being settled rather than litigated, the Court need not consider manageability issues that might otherwise be presented by trial of a class action involving the issues in the Action.

C. Pursuant to Federal Rules of Civil Procedure 23(b)(1)(A) and 23(b)(1)(B), the Court hereby provisionally certifies the following Settlement Class:

All participants and beneficiaries of the American Federation of Musicians and Employers' Pension Plan (the "Plan") from August 9, 2010 through the date of this Order, excluding Defendants and their beneficiaries.

D. For the purposes of Settlement only, Plaintiffs Andy Snitzer and Paul Livant are appointed as the Class Representatives of the Settlement Class. The prior appointment of Chimicles Schwartz Kriner & Donaldson-Smith LLP as Interim Class Counsel (ECF # 39) remains in effect and Steven A. Schwartz and Robert J. Kriner of Chimicles Schwartz Kriner & Donaldson-Smith LLP, and their firm Chimicles Schwartz Kriner & Donaldson-Smith LLP are appointed as Class Counsel.

## **II. PRELIMINARY APPROVAL OF THE TERMS OF THE SETTLEMENT**

A. The Settlement Agreement requires Defendants' insurers to pay \$26,850,000 as the Gross Settlement Amount, of which at least \$17 million will be paid into the Plan if this Court grants Plaintiffs' motion for Attorneys' Fees and Costs and Service Awards. In the Settlement Agreement, Defendants and the Plan have also agreed to implement certain Governance Provisions.

B. On a preliminary basis, taking into account (1) the value and certainty of the benefits to be provided by the Settlement to Class Members and the Plan; (2) the defenses asserted by Defendants; (3) the risks to Plaintiffs and Class Members that Defendants would be successful in whole or part at trial on the merits of the claims alleged in this Action; and (4) the length of time that would be required for Class Members to obtain a final judgment after trials and appeals, the Settlement appears sufficiently fair, reasonable, and adequate to authorize dissemination of notice to the Settlement Class as set forth in the Settlement Agreement.

C. Moreover, the Court finds that the Settlement falls within the range of reasonableness because the Settlement has key indicia of fairness, in that (1) the Parties have reached the Settlement after completing extensive discovery and shortly before trial, (2) the extensive negotiations were contentious, arm's length, and facilitated by an experienced professional mediator (Robert Meyer, Esq., of JAMS), and (3) the proponents of the Settlement are experienced in similar litigation.

D. Accordingly, the Settlement is hereby preliminarily approved.

### **III. APPROVAL OF NOTICE PLAN**

As set forth in the Settlement Agreement, the Parties have submitted a proposed Notice of Settlement (the "Notice"), attached as Exhibit 2 to the Settlement Agreement.

A. The Notice fairly, accurately, and reasonably informs Class Members of: (1) appropriate information about the nature of this Action and the essential terms of the Settlement Agreement; (2) appropriate information about how to obtain additional information regarding this Action and the Settlement, in particular, through the Settlement Website, [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com); and (3) appropriate information about how to object to the Settlement if they wish to do so. The Notice of Settlement also fairly and adequately informs Class Members that if they do not comply with the specified procedures and the deadline for objections, they will lose

any opportunity to have any objection considered at the Fairness Hearing or to otherwise contest approval of the Settlement or appeal from any order or judgment entered by the Court in connection with the Settlement.

B. The Settlement Agreement provides that, within thirty (30) calendar days of the date of this Order, the Plan shall send the Notice to each Class Member for whom the Plan has either an email or mailing address on record with the Plan. For Participants and Beneficiaries in the Settlement Class who reside at the same address, a single mailing or email shall suffice. The Settlement Agreement also provides that, in recognition that the Plan lacks either an email or mailing address for 21,881 of the total 114,285 Class Members, the Notice and other documents identified in the Settlement Agreement, or links to those identified documents, will be posted to the Settlement Website and that the initial posting of the Notice will occur no later than the date when the Notice is first mailed or emailed to Class Members.

C. Within thirty (30) calendar days of the date of this Order, the Plan shall send the Notice by either email or first class mail to each Class Member for whom the Plan has an address, as specified in the Settlement Agreement. On or before the date that Notice is sent, the Plan shall establish the Settlement Website on which the Notice will be posted.

D. At or before the Fairness Hearing, the Plan shall file with the Court a proof of timely compliance with the foregoing requirements.

E. The Notice satisfies the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (“CAFA”), and any other applicable laws, constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

F. Accordingly, the Court hereby approves the proposed Notice and orders that the form and content of the proposed Notice be provided to the Settlement Class by the Plan as set forth in the Settlement Agreement.

G. The Parties have also submitted as Exhibit 4 to the Settlement Agreement a Form Notice under the Class Action Fairness Act of 2005 (“CAFA”). The Court also approves the form of the CAFA Notice. Defendants shall notify the appropriate Federal and State officials under CAFA. Proof of compliance will be filed with the Motion for Final Approval. Upon mailing the CAFA Notices, Defendants shall have fulfilled their obligations under CAFA.

#### **IV. PRELIMINARY INJUNCTION**

Pending a final determination of whether the Settlement Agreement should be approved, the Plan and each Class Member (and his or her heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns), are preliminarily enjoined from: (1) suing any Released Party in any action or proceeding alleging any of the Released Claims, even if any Class Member may discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Action and the Released Claims; (2) directly, representatively or derivatively, or in any other capacity, commencing, prosecuting or litigating, in any local, state, or federal court, or in any tribunal, agency or other forum, any claim, allegation, cause of action, matter, lawsuit, or action (including but not limited to actions pending as of the date of this Order) against (a) any Released Party that arises out of or relates in any way to the Released Claims; or (b) Class Counsel or the Class Representatives that arise out of the institution, prosecution, proposed settlement or dismissal of the Action.

## **V. OBJECTIONS**

A. All Class Members have the right to object to the Settlement pursuant to the procedures and schedule set forth in the Settlement Agreement and the Notice.

B. All written objections and supporting papers must (1) clearly identify the case name and number (*Snitzer and Livant v. The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund, et al.*, No. 1:17-cv-05361-VEC), (2) the objector's printed name, address, telephone number, and email address; (c) a statement with specificity of the grounds for the objection along with any supporting papers, materials, briefs or evidence that the objector may wish the Court to consider when reviewing the objection; (d) the objector's actual written signature; and (e) a statement whether the objector and/or objector's counsel intends to appear at the Fairness Hearing. If a Settlement Class Member or counsel for the Settlement Class Member who submits an objection to this Settlement has objected to a class action settlement during the past 5 years, the objection shall also disclose all cases in which they have filed an objection by caption, court and case number, and for each case, the disposition of the objection, including whether any payments were made to the objector or his or her counsel, and if so, what incremental benefits, if any, were achieved for the class in exchange for such payments.

## **VI. FINAL APPROVAL HEARING**

The Court hereby schedules the Fairness Hearing at \_\_\_\_:\_\_\_\_ m on \_\_\_\_\_, 2020, which date is approximately (and no less than) one hundred and ten (110) calendar days after the date this Preliminary Approval Order is filed, to determine whether the certification of the Settlement Class, the designation of Plaintiffs as Class Representatives, the appointment of Class Counsel, and the Settlement should receive final approval. At that time, the Court will also consider Plaintiffs' Motion for Attorneys' Fees, Costs and Service Awards, which shall be filed at least sixty (60) calendar days before the Fairness Hearing and any responses thereto, which shall

be posted on the Settlement Website; as well as Plaintiffs' Motion for Final Approval of the Settlement, which shall be filed no later than fourteen (14) calendar days before the Fairness Hearing. The Fairness Hearing may be postponed or rescheduled by order of the Court without further notice to the Settlement Class, but any rescheduled date will be posted on the Settlement Website.

## **VII. STAY OF PROCEEDINGS**

Pending final determination of whether the Settlement should be approved, the Court hereby also stays all proceedings in this case, other than those proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement.

## **VIII. OTHER PROVISIONS**

A. In the event that the Settlement Agreement is not finally approved by the Court or does not reach the Settlement Effective Date, or the Settlement Agreement is terminated pursuant to its terms for any reason, the Parties reserve all of their rights, including the right to continue with the Action and all claims and defenses pending at the time of the Settlement. All of the following shall also apply:

1. All orders and findings, shall become null and void and have no force and effect whatsoever, and shall not be admissible or discoverable in this or any other proceeding.

2. Nothing contained in this Preliminary Approval Order is to be construed as a presumption, concession, or admission by or against Defendants or Plaintiffs of any default, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or in any actions or proceedings, whether civil, criminal, or administrative, including, but not limited to, factual or legal matters.

3. Nothing in this Preliminary Approval Order or pertaining to the Settlement Agreement, including any of the documents or statements generated or received pursuant to the

Settlement administration process, shall be used as evidence in any further proceeding in this case or any other litigation or proceeding, including, but not limited to, motions or proceedings or trial.

4. All of the Court's prior orders shall, subject to this Preliminary Approval Order, remain in force and effect.

B. Class Counsel and Counsel for Defendants are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Preliminary Approval Order or the Settlement Agreement, including making, without further approval of the Court, minor changes to the Settlement Agreement, to the form or content of the Settlement Notice, or to the form or content of any other exhibits attached to the Settlement Agreement, that the Parties jointly agree are reasonable or necessary, and which do not limit the rights of the Class Members under the Settlement Agreement.

C. The Court shall maintain continuing jurisdiction over these Settlement proceedings to assure the effectuation thereof for the benefit of the Settlement Class.

D. The Court approves the following schedule for Settlement-related activities:

<b><u>DATE</u></b>	<b><u>EVENT</u></b>
_____, 2020 [Day 1]	Entry of Preliminary Approval Order
_____, 2020 [Day 30]	Last day for the Plan to make the documents identified in the Settlement Agreement available online at <a href="http://www.afm-epfsettlement.com">www.afm-epfsettlement.com</a> , and in the case of subsequently filed documents, within five (5) calendar days after filing.
_____, 2020 [Day 30]	Last day for the Plan to email or mail the Notice to Class Members ("Notice Date")
_____, 2020 [60 days before Fairness Hearing]	Last day for Class Counsel to file Motion for Attorneys' Fees, Costs, and Service Awards
_____, 2020 [30 days before Fairness Hearing]	Last day for Defendants to respond to Motion for Attorneys' Fees, Costs, and Service Awards



_____, 2020 [30 days before Fairness Hearing]	Last day for Class Members to object to the Settlement.
_____, 2020 [14 calendar days before the Fairness Hearing]	Last Day for Class Counsel to file Motion for Final Approval of the Settlement, and submit determination from Independent Settlement Evaluation Fiduciary
_____, 2020 [110 days from Preliminary Approval Order)	Fairness Hearing

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Honorable Valerie Caproni, U.S.D.J.

# EXHIBIT 2

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**TO: All Participants and Beneficiaries of the American Federation of Musicians and Employers' Pension Plan (the "Plan") from August 9, 2010 through the date of the Preliminary Approval Order [fill in date], excluding the Defendants and their Beneficiaries.**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

- Please read this Notice and the Settlement Agreement available at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com) carefully. Your legal rights may be affected whether you act or don't act. This Notice is a summary, and it is not intended to, and does not, include all of the specific details of the Settlement Agreement. To obtain more specific details concerning the Settlement, please read the Settlement Agreement and other Court documents available on the website above, such as Plaintiffs' Memorandum of Law in Support of Preliminary Approval of Class Action Settlement ("Preliminary Approval Memorandum"). Any amendments to the Settlement Agreement or any other settlement documents will be posted on that website. You should visit that website if you would like more information about the Settlement and any possible amendments to the Settlement Agreement or other changes, including changes to the date, time, or location of the Fairness Hearing, or other Court orders concerning the Settlement.
- Plaintiffs Andy Snitzer and Paul Livant ("Plaintiffs" or "Class Representatives") brought this class action lawsuit against certain trustees of the Plan ("Defendants") on behalf of Class Members and the Plan, seeking recovery for breach of fiduciary duties and other violations of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1000, *et seq.* ("ERISA"). Plaintiffs believe their claims have merit for the reasons set forth in their Preliminary Approval Memorandum. Defendants deny all claims, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.
- To settle Plaintiffs' claims, Defendants have agreed to pay \$26.85 million and to implement certain Governance Provisions negotiated by the parties that Plaintiffs believe address the concerns raised in the Amended Complaint regarding the manner in which the Defendants carried out their fiduciary duties. If the Court grants Class Counsel's application for Attorneys' Fees and Costs and Service Awards to the Plaintiffs, the Plan will receive at least \$17 million of the total Settlement.
- Your legal rights will be affected whether you act or don't act. This Notice includes information on the Settlement and the lawsuit. Please read the entire Notice carefully.
- The Court in charge of this case has given its preliminary approval to the Settlement and approved this Notice, but still has not yet decided whether to grant final approval of the Settlement. If the Court finally approves the Settlement, it will issue an Order requiring Defendants to comply with the terms of the Settlement. Once the time for any appeals has run or any such appeals have been rejected, the \$26.85 million settlement amount (minus

any Attorneys' Fees and Costs, and Service Awards to Messrs. Snitzer and Livant awarded by the Court) will be transferred to the Plan and will be available to pay Plan costs and benefits to Class Members, and the Plan Trustees will implement the Governance Provisions provided for by the Settlement.

- The following rights and options – and deadlines to exercise them – are explained in this Notice.

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>		
<b>DO NOTHING</b>	You do not need to do anything. Inclusion in the Settlement is automatic and if the Court approves the Settlement all Class Members will be bound by its terms.	_____
<b>OBJECT TO THE SETTLEMENT</b>	If you have an objection to the Settlement, or otherwise wish to comment on the Settlement, you can write to the Court explaining why you agree or disagree with the Settlement, Attorneys' Fees and Costs, or Service Awards.	_____
<b>GO TO THE HEARING</b>	Ask to speak in Court about your opinion of the Settlement.	_____

## BASIC INFORMATION

### 1. What Is This Notice About?

This Notice is to inform you about a Settlement reached in this litigation, before the Court decides whether to grant final approval of this Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights. The Court in charge is the United States District Court for the Southern District of New York. This litigation is known as *Snitzer and Livant v. The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund, et al.*, No. 1:17-cv-05361-VEC. The people who sued are called the "Plaintiffs" or "Class Representatives." The trustees they sued are called the "Defendants" or the "Defendant Trustees."

### 2. What Is This Lawsuit About?

In the lawsuit, Plaintiffs alleged that Defendants violated ERISA and breached their fiduciary duties in connection with certain investment decisions they made and the processes used by them to make those decisions from 2010-2017.

Throughout the litigation and in the Settlement Agreement, Defendants have denied any and all claims and have also denied that they committed any wrongdoing whatsoever. Defendants assert that they have always managed the Plan, including its investments, loyally and prudently.

### 3. What Is Not Part of this Lawsuit

The Amended Complaint, which was filed in 2017, did not raise any claims – and thus does not settle any claims – regarding the Trustees' subsequent decision in 2019 to seek approval

for benefit cuts under the Multiemployer Pension Reform Act of 2014 (“MPRA”) and the proposed Settlement does not impact or impair any right Plan Participants and Beneficiaries may have in connection with the pending MPRA process.

#### **4. Why Is This a Class Action?**

In a class action, one or more people, called the “Class Representatives,” sue on behalf of themselves and other people with similar claims in the specific class action. All of these people together are the “class” or “class members.” In a class action, one court may resolve the issues for all class members.

#### **5. Why Is There A Settlement?**

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides have agreed to the Settlement to avoid the costs and risks of a lengthy trial and appeals process. Nothing in the Settlement Agreement is an admission or concession on Defendants’ part of any fault or liability whatsoever, nor is it an admission or concession on Plaintiffs’ part that their claims lacked merit. The Class Representatives and Class Counsel believe the Settlement is fair, reasonable, and adequate, and in the best interests of the Class Members.

### **THE SETTLEMENT**

#### **6. How Do I Know If I May Be Included in the Settlement Class?**

The Settlement Class includes: All Participants and Beneficiaries of the Plan from August 9, 2010 through the date of the Preliminary Approval Order, excluding Defendants and their Beneficiaries.

It is important to note that the fact that you are included in the Settlement Class, and receiving this Notice, does not mean that you are entitled to a Plan benefit now or in the future. It only means that you (or, if you are a beneficiary, the person who designated you) had some period of Plan participation during the Class Period.

The Settlement Agreement, the Preliminary Approval Order, and other relevant pleadings and Court orders are accessible on the website at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).

#### **7. How Much Money Does the Settlement Provide for the Plan?**

To settle the lawsuit, Defendants will cause their insurers to pay \$26.85 million. After a deduction of Attorneys’ Fees and Costs, and Service Awards to Plaintiffs Snitzer and Livant (see FAQ 12 below), as approved by the Court, the remaining balance of the Gross Settlement Amount will be transferred to the Plan and will be available to pay Plan costs and benefits to Participants and Beneficiaries. As discussed further below, Class Counsel and Plaintiffs will be making an application for Attorneys’ Fees of up to one third of the Gross Settlement Amount plus \$900,000 in costs, which is inclusive of the \$20,000 in Service Awards they are seeking for the Plaintiffs. If approved, these amounts would be paid out of the Gross Settlement Amount, leaving at least \$17 million for the Plan.

#### **8. What Governance Provisions Will the Plan Implement If the Court Approves the Settlement?**

In addition to the \$26.85 million payment, the Trustees agreed in the Settlement to make certain disclosures and Plan governance changes negotiated by the parties.

The following is a summary of the Governance Provisions. More details about the Governance Provisions and the Settlement as a whole are set forth in the Settlement Agreement, available at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).

- **Neutral Independent Fiduciary Trustee:** Pursuant to the Settlement, the Trustees will appoint Blakeman Crest Advisors, LLC (“BCA”) to serve as a Neutral Independent Fiduciary Trustee for the Plan for 4-5 years, through its manager Andrew Irving. BCA, with Mr. Irving acting for it, was jointly selected by Plaintiffs and Defendants. In its capacity as Neutral Independent Fiduciary Trustee, BCA, through Mr. Irving, will serve as (a) a nonvoting member of the Investment Committee; and (b) an advisory resource to the voting members of the Investment Committee, including the Investment Committee Co-Chairs. BCA, through Mr. Irving, shall also have the following responsibilities: (i) work with, and provide input to, the Union- and Employer-side Co-Chairs of the Investment Committee in fulfilling their functions and responsibilities as Co-Chairs; (ii) with complete access to the information available to the Union- and Employer-side Co-Chairs of the Investment Committee, function in all respects (other than voting authority) as those Co-Chairs; (iii) participate in Investment Committee meetings, deliberations and decisions, with all the authority and responsibilities of a Trustee with respect to the Plan’s investments (other than voting authority); (iv) participate in the portion of the Board meetings, deliberations and decisions, with all the authority and responsibilities of a Trustee, related to the Plan’s investments (other than voting authority); (v) be responsible to state his assessment, including his reasoning for such assessment, for all matters under deliberation or subject to a decision or vote related to the Investment Committee (including asset management and allocation); (vi) make recommendations, at least annually, regarding changes (if any) in the processes pursuant to which the Investment Committee performs its responsibilities; and (vii) in coordination with the Trustees and the Outsourced Chief Investment Officer (“OCIO”), prepare a written report regarding possible changes to the Plan’s Investment Policy Statement.

The parties believe that Mr. Irving has the requisite expertise to act for BCA as Neutral Independent Fiduciary Trustee in light of his experience acting as an independent fiduciary and as an advisor to pension plan fiduciaries in fulfilling their responsibilities with respect to pension investment and/or actuarial matters. You can review Mr. Irving’s resume and his declaration filed with the Court at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).

- **Replacement of Meketa as OCIO Monitor:** The Trustees agreed to replace Meketa with a new OCIO monitor pursuant to a request for proposal process negotiated by Plaintiffs and Defendants. As described in the Amended Complaint, Defendants retained Meketa to serve as the Plan’s investment consultant from 2010 to 2017, when the Trustees adopted the asset allocations and made the investment decisions Plaintiffs alleged were imprudent. In 2017, the Plan Trustees elected to hire Cambridge Investment Group to serve as the Plan’s OCIO with discretion to make Plan investments, at which time Meketa took on the role of OCIO monitor. The Settlement requires the Neutral Independent Fiduciary Trustee to educate the OCIO monitor candidates selected about the parties’ respective claims and defenses based on his review of certain lawsuit materials, including the parties’ respective expert reports.

- **Website Disclosures:** As part of the Settlement, the Trustees have agreed to post on the Plan’s website certain reports, including charts showing a comparison of the Plan’s asset allocation to the average asset allocations of large Taft-Hartley plans plus a running cumulative



comparison of Plan's actual performance since OCIO Cambridge took over in October 2017 versus the performance of an appropriate index benchmark. These comparisons are similar to those used by the Parties' respective experts.

- **Disclosure of New Trustees:** Pursuant to the Settlement, the Trustees have agreed that, at least four weeks before the effective date of any new Trustees' appointment to serve on the Board, the Trustees will post on the Plan's website the identity of such new Trustees along with their bios and any other experience relevant to their qualifications to serve as a Trustee, except under certain circumstances where timing does not allow it. The Settlement also acknowledges that at least one employer-designated Trustee and one union-designated Trustee who are members of the Investment Committee had previously stated their intention to resign from the Board within the next 18 months. As part of the Settlement, the Parties agreed that these Trustees will be replaced by two new Trustees who were not previously members of the Board and who will serve on the Investment Committee.

## **9. What Am I Giving Up If the Court Approves the Settlement?**

In exchange for the relief provided by the Settlement, the Parties agreed that the Plaintiffs and all Class Members would forever release the Released Claims against the Released Parties. As set out more fully in the Settlement Agreement, "Released Claims" means any and all claims that were asserted in the Complaint or Amended Complaint or that arise out of, relate in any way to, are based on, or have any connection with any of the factual or legal allegations asserted in the Complaint or Amended Complaint, including, but not limited to, those that arise out of, relate to, are based on, or have any connection with decisions made, prior to the OCIO Management Date, regarding (i) the Plan's asset allocation and the selection (including of the Plan's OCIO), retention, monitoring, oversight, compensation, fees, or performance of the Plan's investments or its investment managers; (ii) investment-related fees, costs, or expenses charged to, paid, or reimbursed by the Plan; (iii) disclosures or failures to disclose information regarding the Plan's investments and/or funding; or (iv) any alleged breach of the duty of loyalty, care, prudence, diversification, or any other fiduciary duties or prohibited transactions in connection with (i) through (iii) above. Additionally, each Class Member shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged any claims against the Class Representatives or Class Counsel, that arise out of the institution, prosecution, settlement or dismissal of the Action.

The governing releases are found within the Settlement Agreement at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com). The Settlement Agreement describes the Released Claims in further detail. This is only a summary of the Released Claims, and is not a binding description. Read the Settlement Agreement carefully since those releases will be binding on you as a Settlement Class Member if the Court grants final approval of the Settlement. The Settlement Agreement is available at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).

## **THE LAWYERS REPRESENTING YOU**

## **10. Do I Have a Lawyer Representing Me?**

The Court has appointed the following lawyers as Lead Plaintiffs' Counsel to represent you and all other members of the Settlement Class:

Steven A. Schwartz  
[sas@chimicles.com](mailto:sas@chimicles.com)

Mark B. DeSanto

[MBD@chimicles.com](mailto:MBD@chimicles.com)

CHIMICLES SCHWARTZ KRINER &

DONALDSON-SMITH LLP

361 West Lancaster Avenue

Haverford, PA 19041

610.642.8500

Robert J. Kriner, Jr.

[RJK@chimicles.com](mailto:RJK@chimicles.com)

CHIMICLES SCHWARTZ KRINER

& DONALDSON-SMITH LLP

2711 Centerville Road, Suite 201

Wilmington, DE 19808

(302) 656-2500

You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **11. How Will the Lawyers Be Paid?**

Plaintiffs' Counsel will ask the Court to reimburse them for the time they spent and expenses they incurred prosecuting the lawsuit. Plaintiffs' Counsel will ask the Court for attorneys' fees not to exceed one-third of the \$26.85 million Settlement amount plus litigation expenses or charges not to exceed \$900,000. To date, Plaintiffs' Counsel represent that they have spent over 12,500 hours prosecuting the lawsuit, and have not been paid anything for their work yet. They also represent that they have also advanced almost \$900,000 in significant costs to cover the expenses necessary to pursue the lawsuit, including experts, transcripts, documents, and travel. Plaintiffs' Counsel will file with the Court a detailed Motion supporting their request for attorneys' fees and reimbursement of expenses. Plaintiffs' Counsel will file that Motion before the deadline for objections and you will be able to review it at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com). Any payment to the attorneys will be subject to Court approval, and the Court may award less than the requested amount. Any Attorneys' Fees and Costs will be paid out of the Gross Settlement Payment. Defendants have reserved the right to object to such requested amounts.

### **12. Will Plaintiffs' Andy Snitzer and Paul Livant Seek Service Awards?**

Yes. Plaintiffs' Counsel will ask the Court to award each Plaintiff \$10,000 as a Service Award for their efforts and the accompanying risks they assumed in bringing this litigation. Both Plaintiffs spent significant time consulting with counsel, producing numerous documents including emails from 2010 through 2017, sitting for full-day depositions by Defendants' Counsel, participating in mediation sessions, and reviewing various court and mediation documents. Mr. Snitzer and Mr. Livant have agreed that any Service Awards will be paid out of the amount awarded by the Court to Class Counsel in Attorneys' Fees and Costs and not out of the Gross Settlement Amount. Mr. Snitzer and Mr. Livant have also each made a commitment that, if the Court approves the requested Service Awards, they will donate those awards to an organization or organizations that they believe are fighting to protect the rights of plan participants and beneficiaries. Defendants have reserved the right to object to the payment of any Service Awards that are earmarked for an outside organization.



**OBJECTING TO THE SETTLEMENT****13. How Do I Object to or Comment on the Settlement?**

You can ask the Court to deny approval of the Settlement by filing an objection. You can also object to the request for Attorneys' Fees and Costs or the proposed Service Awards for each of the Plaintiffs. You can't ask the Court to order a different Settlement or order different Governance Provisions; the Court can only approve or reject this Settlement. If the Court denies approval, the Plan will not receive any of the \$26.85 million Settlement payment negotiated by the parties and the Trustees will not have to implement the Governance Provisions provided for by the Settlement.

Any objection to the proposed Settlement must be in writing. Any objections must be submitted to the Court either by mailing them to the United States District Court for the Southern District of New York, at Thurgood Marshall United States District Courthouse, 40 Foley Square, New York, NY, 10007 ATTN Judge Caproni, or by filing them in person with the Court, and be filed or postmarked on or before \_\_\_\_\_, 2020. If you file a timely written objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*Snitzer and Livant v. The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund, et al.*, No. 1:17-cv-05361-VEC.), (b) your printed name, address, telephone number, and email address; (c) a statement with specificity of the grounds for the objection along with any supporting papers, materials, briefs or evidence that you wish the Court to consider when reviewing the objection; (d) your actual written signature; and (e) a statement whether you and/or your counsel intends to appear at the Fairness Hearing. If a Class Member or counsel for the Class Member who submits an objection to this Settlement has objected to a class action settlement during the past 5 years, the objection shall also disclose all cases in which the objector has filed an objection by caption, court and case number, and for each case, the disposition of the objection, including whether any payments were made to the objector or his or her counsel, and if so, what incremental benefits, if any, were achieved for the class in exchange for such payments.

Any party to the litigation may file a response to an objection before the Fairness Hearing.

If you do not comply with these procedures and timely object, you will lose any opportunity to have any objection considered at the Fairness Hearing or to otherwise contest approval of the Settlement or appeal from any order or judgment entered by the Court in connection with the Settlement.

**14. Can I Opt Out of the Settlement?**

No. The Court has certified this case as a class action pursuant to Federal Rule of Civil Procedure 23(b)(1), and that subsection of Rule 23 does not include provisions for class members to opt out.

<b>THE FINAL FAIRNESS HEARING</b>
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The Court will hold a hearing to decide whether to approve the Settlement and any requests by Plaintiffs' Counsel for fees, costs, and expenses and the proposed Service Awards for the Plaintiffs. You may attend and you may ask to speak, but you do not have to do so.

**15. When and Where Will the Court Decide Whether to Approve the Settlement?**

The Court will hold a Final Fairness Hearing at \_\_\_\_\_. on \_\_\_\_\_, at Courtroom 443 of the United States District Court for the Southern District of New York, at Thurgood Marshall United States District Courthouse, 40 Foley Square, New York, NY, 10007. The hearing may be moved to a different date or time without additional notice, so check [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com) or call Plaintiffs' Counsel to confirm that the date has not been changed. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections or comments, the Court will consider them at that time and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Plaintiffs' Counsel and whether to reimburse Plaintiffs' Counsel for certain costs, and whether to pay Service Awards to the Plaintiffs. At or after the hearing, the Court will decide whether to approve the Settlement.

**16. Do I Have to Attend the Hearing?**

No. Plaintiffs' Counsel will answer any questions the Court may have. But you are welcome to attend at your expense. If you send an objection or comment, you do not have to come to Court to talk about it. As long as you filed or mailed your written objection on time, the Court will consider it. You may also hire your own lawyer at your own expense to attend on your behalf, but you are not required to do so.

**17. May I Speak at the Hearing?**

If you send an objection or comment on the Settlement, as long as your objection noted your intention to appear you or your counsel may have the right to speak at the Fairness Hearing as determined by the Court.

<b>GET MORE INFORMATION</b>
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**18. How Do I Get More Information?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com). For more information on the Settlement, you may contact Lead Counsel identified above in Question 10. Updates about the Settlement will be posted at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com). Finally, you may visit the office of the Clerk of the Court at the address above, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT TELEPHONE THE COURT, THE COURT CLERK'S OFFICE, OR THE FUND OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.**

Dated: \_\_\_\_\_

By Order of the Court, United States District  
Court for the Southern District of New York

# EXHIBIT 3

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREW SNITZER and PAUL LIVANT, individually  
and as representatives of a class of similarly situated  
persons, on behalf of the American Federation of  
Musicians and Employers' Pension Plan,

Plaintiffs,

v.

THE BOARD OF TRUSTEES OF THE AMERICAN  
FEDERATION OF MUSICIANS AND EMPLOYERS'  
PENSION FUND, THE INVESTMENT COMMITTEE  
OF THE BOARD OF TRUSTEES OF THE  
AMERICAN FEDERATION OF MUSICIANS AND  
EMPLOYERS' PENSION FUND, RAYMOND M.  
HAIR, JR., AUGUSTINO GAGLIARDI, GARY  
MATTS, WILLIAM MORIARITY, BRIAN F. ROOD,  
LAURA ROSS, VINCE TROMBETTA, PHILLIP E.  
YAO, CHRISTOPHER J.G. BROCKMEYER,  
MICHAEL DEMARTINI, ELLIOT H. GREENE,  
ROBERT W. JOHNSON, ALAN H. RAPHAEL,  
JEFFREY RUTHIZER, BILL THOMAS, JOANN  
KESSLER, MARION PRESTON,

Defendants.

No. 1:17-cv-5361 (VEC)

**[PROPOSED] FINAL APPROVAL OF THE SETTLEMENT AGREEMENT; FINAL  
JUDGMENT; AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE  
AWARDS; AND ORDER OF DISMISSAL WITH PREJUDICE**

WHEREAS, Plaintiffs Andy Snitzer and Paul Livant, individually and on behalf of Class Members and the American Federation of Musicians and Employers' Pension Plan (the "Plan"), and Defendants The Board of Trustees of the American Federation of Musicians And Employers' Pension Fund (the "Board of Trustees"), The Investment Committee of The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund (the "Investment Committee"), as well as Raymond M. Hair, Jr., Augustino Gagliardi, Gary Matts, William Moriarity, Brian F. Rood, Laura Ross, Vince Trombetta, Phillip E. Yao, Christopher J.G.

Brockmeyer, Michael DeMartini, Elliot H. Greene, Robert W. Johnson, Alan H. Raphael, Jeffrey Ruthizer, Bill Thomas, Marion Preston, and JoAnn Kessler (collectively, the “Defendants”) (with Plaintiffs collectively referred to herein as the “Parties”), have agreed to settle the above-captioned matter (the “Action”) on the terms and conditions set forth in the Settlement Agreement dated March 25, 2020 and all exhibits thereto;

**WHEREAS**, on March \_\_\_\_, 2020 (ECF #XXX), this Court entered a Preliminary Approval Order that conditionally certified pursuant to Federal Rule of Civil Procedure 23, a class consisting of:

All participants and beneficiaries of the American Federation of Musicians and Employers’ Pension Plan during the Class Period, excluding Defendants and their beneficiaries (the “Settlement Class”).

**WHEREAS**, in the Preliminary Approval Order, the Court approved the form and content of the Notice of Proposed Class Action Settlement and Fairness Hearing (“Notice”) directed to members of the Class;

**WHEREAS**, during the period of XXXX, 2020 through XXXX, 2020, the Plan caused the Notice to be emailed and/or mailed to members of the Class for whom Plan records included an email or mailing address, which informed members of the Class of the Settlement terms and that the Court would consider the following issues at the Fairness Hearing: (i) whether the Court should grant final approval to the Settlement; (ii) the amount of attorneys’ fees, costs, and expenses to be awarded to Class Counsel; (iii) whether to approve the payment of the Service Awards to the Class Representatives and the amount of the Service Awards; and (iv) any objections by members of the Class to any of the above that were timely and properly served in accordance with the Preliminary Approval Order;

**WHEREAS**, in recognition that Plan records did not include either an email or mailing address for some Class Members, on XXX, 2020, the Plan caused the Notice to be published at [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com);

**WHEREAS**, Defendants provided notice to the appropriate state and federal officials under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715;

**WHEREAS**, on XXX, 2020, Plaintiffs moved unopposed for final approval of the Settlement Class (“Plaintiffs’ Motion for Final Approval”);

**WHEREAS**, on XXX, 2020, Class Counsel filed an application for (i) attorneys’ fees and expenses and (ii) the Service Awards to Class Representatives (the “Fee Application”);

**WHEREAS**, the Court conducted a hearing on \_\_\_\_\_ (the “Fairness Hearing”) to consider, among other things, (1) whether the proposed Settlement on the terms and conditions provided for in the Agreement is fair, reasonable, adequate, and in the best interests of the Class and should be finally approved by the Court; (2) whether Class Counsel’s Attorneys’ Fee and Cost application is reasonable and should be approved; (3) whether Plaintiffs’ request for Service Awards is reasonable and should be approved; and (4) whether this Final Approval Order should be entered dismissing with prejudice all claims asserted in the Action against Defendants; and

**WHEREAS**, this Court finds that the papers are detailed and sufficient to rule on Plaintiffs’ Motion for Final Approval and the Fee Application on the papers; and

**WHEREAS**, this Court, having heard from Class Counsel on behalf of the Settlement Class, and from Defendants’ Counsel, and having reviewed all other arguments and submissions

presented by all interested persons and entities with respect to the Settlement and the Fee Application; and

**WHEREAS**, all capitalized terms used herein have the meanings set forth and defined in the Settlement Agreement, it is hereby

**ORDERED, ADJUDGED, DECREED, AND FOUND THAT:**

1. This case arises out of Plaintiffs' allegations, *inter alia*, that Defendants violated the Employee Retirement Income Security Act of 1974, as amended, and breached their fiduciary duties in connection with certain investment decisions they made and the processes used by them to make those decisions from 2010-2017.

2. After extensive settlement negotiations, including a formal mediation, the Parties agreed to settle this case. This Final Approval Order and Judgment incorporates and makes a part hereof the Settlement Agreement (ECF No. \_\_)

3. The Settlement Agreement provides substantial and meaningful relief to the Settlement Class, including the payment of at least \$17 million to the Plan and the Plan Trustees' agreement to implement the Governance Provisions specified in Section 8 of the Settlement Agreement.

4. The Settlement Class as provided in the Preliminary Approval Order is unconditionally certified pursuant to Federal Rule of Civil Procedure 23(b)(1)(A) and 23(b)(1)(B). The Court finds, in the specific context of this Settlement, that the following requirements are met: (a) the number of Settlement Class Members is in the thousands and is so numerous that joinder of all Settlement Class Members is impracticable; (b) there are questions of law and fact common to the Settlement Class Members; (c) Plaintiffs' claims are typical of the claims of the Settlement Class Members they seek to represent for purposes of this Settlement; (d) Plaintiffs and Class

Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so; (e) prosecuting separate actions would create a risk of inconsistent or varying adjudications with respect to individual Class Members that would establish incompatible standards of conduct for Defendants; (f) Defendants have acted on grounds that apply generally to the Settlement Class, so that the benefits provided in the Settlement Agreement are appropriate for the Settlement Class as a whole; (g) questions of law and fact common to the Class Members predominate over any questions affecting any individual Settlement Class Member; and (h) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23.

A. The Court also concludes that, because the Action is being settled rather than litigated, the Court need not consider manageability issues that might otherwise be presented by trial of a class action involving the issues in the Action.

B. For the purposes of Settlement only, Plaintiffs Andy Snitzer and Paul Livant are confirmed as the Class Representatives of the Settlement Class, and Steven A. Schwartz and Robert J. Kriner of Chimicles Schwartz Kriner & Donaldson-Smith LLP and their firm are confirmed as Class Counsel.

5. Notice to the members of the Settlement Class required by Federal Rule of Civil Procedure 23 has been provided as directed by this Court in the Preliminary Approval Order, and such notice having constituted the best notice practicable, including, but not limited to, the forms of notice and methods of identifying and providing notice to the members of the Settlement Class, has satisfied the requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, and all other applicable laws.



6. Defendants have complied with the Class Action Fairness Act of 2005, 28 U.S.C. §1715, *et seq.* by timely mailing notice of the Settlement pursuant to 28 U.S.C. §1715(b), including notices to appropriate state and federal officials under the Class Action Fairness Act. The notice contains the documents and information required by 28 U.S.C. §1715(b)(1)-(8). The Court finds that Defendants have complied in all respects with the requirements of 28 U.S.C. §1715.

7. **Objections:**

8. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court hereby fully and finally approves the Settlement set forth in the Settlement Agreement in all respects, and finds that the Settlement is, in all respects, fair, reasonable, adequate, and in the best interests of the Settlement Class. Plaintiffs and Defendants are directed to promptly consummate the Settlement in accordance with the Settlement Agreement and to comply with all of its terms.

9. The Settlement shall not be deemed to constitute an admission or finding of liability or wrongdoing on the part of Defendants, Plaintiffs, the Class Members, or Released Parties.

10. The Action is hereby dismissed, with prejudice, on the merits, as against the Defendants, on the terms and conditions set forth in the Settlement Agreement, and without costs to any party except as provided herein and in the Settlement Agreement. For those defendants who were dismissed without prejudice during the pendency of the litigation, namely Maureen Kilkelly, Andrea Finkelstein, Harold Bradley, Lovie Smith-Wright, Melinda Wagner, Thomas Lee, and William Foster (*see* ECF Nos. 39, 71), the Action is dismissed with prejudice as to them as well.

11. Plaintiffs, each Settlement Class Member, and the Plan shall be deemed to have, and by operation of this Final Approval Order, shall have, fully, finally, and forever settled,

released, relinquished, waived, and discharged all Released Claims against the Released Parties in the manner(s) set forth in the Settlement Agreement.

12. Plaintiffs, each Settlement Class Member, and the Plan are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims in the manner(s) set forth in the Settlement Agreement.

13. Defendants and each Settlement Class Member shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged any claims against the Class Representatives or Class Counsel, that arise out of the institution, prosecution, settlement or dismissal of the Action.

14. Class Counsel are hereby awarded (i) attorneys' fees in the amount of \$\_\_\_\_\_ (\_\_\_\_% of the Gross Settlement Amount) plus (ii) reimbursement of their reasonable expenses in the amount of \_\_\_\_\_ (\$\_\_\_\_\_), to be deducted from the Gross Settlement Amount. Attorneys' fees in this amount are fair and reasonable in light of the successful results achieved by Class Counsel, the monetary benefits obtained in this Action, the substantial risks associated with this Action, Class Counsel's skill and experience in class action litigation of this type, and the fee awards in comparable cases.

15. The award of attorneys' fees to Class Counsel shall be allocated among Class Counsel in a fashion that, in the opinion of Steven A. Schwartz and Robert J. Kriner of Chimicles Schwartz Kriner & Donaldson-Smith LLP fairly compensates them for their respective contributions in the prosecution of the Action.

16. Class Service Awards are awarded to the Class Representatives in the amount of \$\_\_\_\_\_ each, to be deducted from Class Counsel's Attorneys' Fees and Costs and not from the Gross Settlement Amount.

17. Defendants and the Released Parties shall not be liable for any additional fees or expenses for Class Counsel or counsel of any Plaintiffs or Class Members in connection with the Action.

18. Any appeal or challenge affecting only this Court's approval regarding any attorneys' fees, expenses, or Service Awards shall in no way disturb or affect the finality of the other provisions of this Judgment nor the Settlement Effective Date.

19. By reason of the Settlement, and approval hereof, there is no just reason for delay and this Final Approval Order and Judgment shall be deemed a final judgment pursuant to the Federal Rules of Civil Procedure.

20. Jurisdiction is reserved, without affecting the finality of this Final Approval Order and Judgment, over:

- a. Effectuating and enforcing the Settlement and the terms of the Settlement Agreement including payment of the \$26.85 million Gross Settlement Amount, implementation of the Governance Provisions, and the payment of Plaintiffs' counsel's attorneys' fees and reimbursement of expenses and Service Awards as ordered by the Court;
- b. Determining whether, in the event an appeal is taken from any aspect of this Final Approval Order and Judgment, notice should be given at the appellants' expense to some or all Class Members apprising them of the pendency of the appeal and such other matters as the Court may order;
- c. Adjudicating any disputes that arise under the Settlement Agreement; and
- d. Any other matters related or ancillary to the foregoing.

21. The above-captioned Action is hereby dismissed in its entirety with prejudice.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Valerie Caproni, U.S.D.J.

# EXHIBIT 4



Proskauer Rose LLP Eleven Times Square New York, NY 10036-8299

March \_\_, 2020

**By First Class Mail Return Receipt Requested**

Myron D. Rumeld  
Member of the Firm  
d +1.212.969.3021  
f 212.969.2900  
mrumeld@proskauer.com  
www.proskauer.com

Re: *Snitzer, et al. The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund, et al.*, No. 17-cv-5361 (VEC)

Dear Sir/Madam

Defendants The Board of Trustees of the American Federation of Musicians And Employers' Pension Fund, The Investment Committee of The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund, as well as Raymond M. Hair, Jr., Augustino Gagliardi, Gary Matts, William Moriarity, Brian F. Rood, Laura Ross, Vince Trombetta, Phillip E. Yao, Christopher J.G. Brockmeyer, Michael DeMartini, Elliot H. Greene, Robert W. Johnson, Alan H. Raphael, Jeffrey Ruthizer, Bill Thomas, Marion Preston, and JoAnn Kessler (collectively, the "Defendants"), through undersigned counsel, hereby provide this notice of a Proposed Class Action Settlement in the above-referenced matter pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. The proposed settlement will resolve this action.

On March 25, 2020, Plaintiffs' Counsel filed a Motion for Preliminary Approval ("Motion for Preliminary Approval"), which included the Parties' Settlement Agreement. These papers are attached hereto as **Exhibit A**. The Settlement Agreement contemplates that the Court will certify a class, defined as: All participants and beneficiaries of the American Federation of Musicians and Employers' Pension Plan (the "Plan") from August 9, 2010 through the date the Court gives its Preliminary Approval to the Settlement, excluding Defendants and their beneficiaries.

In accordance with their obligations under CAFA, Defendants enclose the following:

- (1) **The Complaint, any materials filed with the Complaint, and any Amended Complaints.**

Plaintiffs' Class Action Complaint and Amended Complaint are attached hereto as Exhibit B.

- (2) **Notice of any scheduled judicial hearing in the class action.**

There are no judicial hearings scheduled at this time. Once the Court schedules the fairness hearing, the date of the hearing and a copy of the Court's order will be posted on [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).



March \_\_, 2020

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**(3) Any proposed or final notification to class members.**

The proposed Notice of Class Action Settlement submitted to the Court is enclosed as Exhibit 3 to the Settlement Agreement, which is included in Exhibit A hereto.

**(4) Any proposed or final class action settlement.**

The Settlement Agreement entered into by the parties and as submitted to the Court is included in Exhibit A.

**(5) Any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants.**

There are no agreements other than the Settlement Agreement contemporaneously made between Class Counsel and counsel for the Defendants.

**(6) Any final judgment or notice of dismissal.**

Final judgment has not yet been entered. Once the Court issues its Final Approval Order and Judgment, a copy of the Court's order will be posted on [www.afm-epfsettlement.com](http://www.afm-epfsettlement.com).

**(7) A reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement**

Attached as Exhibit C is a table with reasonable estimates of the number of Class Members residing in each state according to the Plan's records. The Settlement Agreement provides that the Gross Settlement Amount of \$26,850,000 (minus Attorneys' Fees and Costs and any Service Awards of up to \$9,850,000) will be paid into the Plan, which is a defined benefit plan and, thus, does not earmark Plan assets for any particular Participant or Beneficiary Class Member. Consequently, there is no "estimated proportionate share of the claims of such members to the entire settlement" as contemplated by CAFA.

**(8) Any written judicial opinion relating to the materials described in (3) through (6).**

There are no written judicial opinions relating to the materials described in sections (3) through (6) at this time.

If you have questions about this notice, the lawsuit, or the enclosed materials, please do not hesitate to contact me.

Proskauer»

March \_\_, 2020

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Very truly yours,

*s/ Myron D. Rumeld*

Myron D. Rumeld

Enclosures



# EXHIBIT 5

# AMERICAN FEDERATION OF MUSICIANS AND EMPLOYERS' PENSION FUND

## INVESTMENT PERFORMANCE REPORT





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This performance report represents CA's estimates of investment performance, portfolio positioning and manager information including but not limited to fees, liquidity, attribution and strategy and are prepared using information available at the time of production. Historical results can and likely will adjust over time as updated information is received and processed. Estimated, preliminary, and/or proxy information may be displayed and can change with finalized information, and CA disclaims any obligation to update previously provided performance reports when such changes occur. This report is not intended as a Book of Record nor is it intended for valuation, reconciliation, accounting, auditing, or staff compensation purposes, and CA assumes no responsibility if the report is used in any of these ways.

The primary data source for information is the investment manager and/or fund administrator, therefore data may not match custodial or other client records due to differences in data sourcing, methodology, valuation practices, etc. Estimated values may include prior quarter end data adjusted by a proxy benchmark or by subsequent cash flows. In some instances, data may be sourced directly from a client and/or prior advisors or service providers. CA makes no representations that data reported by unaffiliated parties is accurate, and the information contained herein is not reconciled with manager, custodian, and/or client records. The nature of performance measurement is such that it is a best estimate of performance. As such, performance is displayed to a one decimal place level of precision, accommodating up to nine basis points (0.09%) of imprecision in reported returns. There are multiple methodologies available for use in the calculation of portfolio performance, and each may yield different results. Differences in both data inputs and calculation methodologies can lead to different calculation results.

As part of the reporting process, errors can and do occur. For the purpose of CA reports, an error represents any component of the performance report that is missing or inaccurate, including, but not limited to, composite returns and market values, manager returns and market values, benchmark returns, risk and other statistical measures, holdings and exposures. Errors can be a result of incorrect aspects of data, calculations, setup, software or may be a result of an omission, incorrect value, incorrect systematic computation, incorrect report production, and other similar reasons. For classification as an error, the item in question must be objectively incorrect according to the standard policies, procedures, and methodologies utilized by CA. Differences due to changes in methodology over time, the difference between preliminary and final data and other related changes do not constitute errors, but rather normal course of business for the reporting process. Though CA makes reasonable efforts to discover inaccuracies in the input data used in the performance report, CA cannot guarantee the accuracy and are ultimately not liable for inaccurate information provided by external sources. Clients should compare the values shown on our performance reports with the statements sent directly from their custodians, administrators or investment managers.

In the event that an error is discovered, CA will correct the error and maintain the most accurate information possible. In the event of a material error, CA will disclose the error to the report recipient along with an updated version of the report from the most recent period.

CA's performance report is intended to be offered as a standardized product. CA may be instructed by the client to customize aspects of the report outside of CA's standard policies and procedures. Deviating from CA's standard operating policies and procedures can compromise the quality of the report and increase the risk of error. Customization requests cannot be accommodated in all cases if it is deemed that necessary systems and controls are not in place to minimize errors or reduce the validity of the report. Customizations, including but not limited to, data sourcing, data input, calculation methodologies and report display are acknowledged by the recipient as potentially compromising to the quality of the deliverable and the recipient assumes the risk for any ensuing quality breaches as a result of these customizations.

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## PERFORMANCE

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	09/30/2017	\$1,842,938,898	1.7	4.9	8.5	16.9	7.1
<b>Interim Policy Benchmark<sup>1</sup></b>	09/30/2017		1.7	4.3	8.2	18.1	6.7
Value Add			0.0	0.6	0.4	-1.2	0.4
<b>Global Equity*</b>	09/30/2017	\$776,306,213	3.4	9.7	11.5	24.7	8.0
MSCI ACWI Index (N)	09/30/2017		3.5	9.0	12.9	26.6	8.9
Value Add			-0.1	0.8	-1.4	-1.9	-0.9
<b>U.S. Equity*</b>	10/17/2011	\$134,342,999	1.5	7.7	14.3	29.8	12.9
MSCI US Index (N)	10/17/2011		2.9	9.0	15.1	30.9	13.2
Value Add			-1.3	-1.3	-0.8	-1.1	-0.3
Parametric S&P 500 Futures	10/16/2017	-\$27,302,795	---	---	---	---	---
Bares Mid/Large Cap	10/23/2017	\$35,444,307	-1.7	1.4	-4.4	10.1	---
MSCI US Index (N)	10/23/2017		2.9	9.0	15.1	30.9	---
Value Add			-4.6	-7.6	-19.5	-20.8	---
Eagle Equity Strategy*	10/23/2017	\$55,604,976	2.5	10.4	16.9	32.4	---
MSCI US Index (N)	10/23/2017		2.9	9.0	15.1	30.9	---
Value Add			-0.4	1.5	1.8	1.5	---
HS Concentrated Growth Equity*	11/07/2017	\$40,810,493	2.0	6.7	22.2	38.3	---
MSCI US Index (N)	11/07/2017		2.9	9.0	15.1	30.9	---
Value Add			-0.8	-2.3	7.2	7.4	---
Pzena U.S. Best Ideas Fund, LP	11/30/2017	\$29,786,018	3.8	12.7	15.6	30.9	---
MSCI US Index (N)	11/30/2017		2.9	9.0	15.1	30.9	---
Value Add			0.9	3.7	0.5	0.0	---

## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	09/30/2017	\$1,842,938,898	1.7	4.9	8.5	16.9	7.1
<b>Interim Policy Benchmark<sup>1</sup></b>	09/30/2017		1.7	4.3	8.2	18.1	6.7
<b>Developed ex. U.S. Equity*</b>	09/01/2012	\$224,662,698	4.0	9.1	11.9	22.4	4.8
MSCI World ex US Index (N)	09/01/2012		3.2	7.9	10.9	22.5	4.2
Value Add			0.8	1.2	1.0	-0.1	0.6
GQG International Equity Fund*	01/01/2017	\$37,228,514	3.6	7.6	16.0	29.1	11.2
MSCI ACWI ex US Index (N)	01/01/2017		4.3	8.9	10.2	21.5	4.1
Value Add			-0.7	-1.3	5.8	7.6	7.1
Parametric MSCI EAFE Futures	10/16/2017	\$23,419,750	---	---	---	---	---
Cevian Capital II, Ltd.	10/31/2017	\$25,763,848	3.4	10.1	11.6	18.5	---
MSCI EAFE Index (N)	10/31/2017		3.2	8.2	10.9	22.0	---
Value Add			0.2	1.9	0.7	-3.5	---
Marathon-London International Equity Strategy	10/31/2017	\$42,127,175	3.9	10.0	12.2	23.1	---
MSCI EAFE Index (N)	10/31/2017		3.2	8.2	10.9	22.0	---
Value Add			0.6	1.8	1.2	1.1	---
Arrowstreet ACWI ex US*	11/15/2017	\$52,577,854	4.5	10.1	11.3	22.9	---
MSCI ACWI ex US Index (N)	11/15/2017		4.3	8.9	10.2	21.5	---
Value Add			0.1	1.1	1.1	1.4	---
Artisan International Value Fund*	07/19/2019	\$43,545,557	4.9	9.2	---	---	---
MSCI EAFE Index (N)	07/19/2019		3.2	8.2	---	---	---
Value Add			1.6	1.0	---	---	---
<b>Emerging Markets Equity*</b>	08/06/2010	\$120,357,449	6.6	12.3	10.0	20.1	3.4
MSCI Emerging Markets Index (N)	08/06/2010		7.5	11.8	7.7	18.4	3.8
Value Add			-0.9	0.5	2.3	1.6	-0.4

Rows marked with " \* " contain preliminary data.

## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	<b>09/30/2017</b>	<b>\$1,842,938,898</b>	<b>1.7</b>	<b>4.9</b>	<b>8.5</b>	<b>16.9</b>	<b>7.1</b>
<b>Interim Policy Benchmark<sup>1</sup></b>	<b>09/30/2017</b>		<b>1.7</b>	<b>4.3</b>	<b>8.2</b>	<b>18.1</b>	<b>6.7</b>
Parametric MSCI Emerging Markets Futures	10/16/2017	-\$12,434,220	---	---	---	---	---
Buena Vista Asian Opp. Fund, Ltd.*	11/30/2017	\$28,544,371	4.7	14.4	11.1	21.1	---
MSCI AC Asia Pacific ex JP (N)	11/30/2017		5.8	10.5	6.9	19.2	---
Value Add			-1.1	3.9	4.2	1.9	---
Constellation Fund, SPC	11/30/2017	\$9,973,932	13.0	16.3	34.3	47.2	---
Brazil Bovespa Stock Index	11/30/2017		12.3	14.3	17.3	26.8	---
Value Add			0.7	2.0	17.0	20.4	---
INCA Latin American Fund, L.P. – Ex-Brazil	11/30/2017	\$3,892,681	4.7	2.0	4.3	15.3	---
MSCI EM Latin America ex Brazil Index (N)	11/30/2017		6.7	4.0	-3.4	3.7	---
Value Add			-2.0	-2.0	7.7	11.7	---
iShares MSCI South Africa ETF*	11/30/2017	\$3,663,250	8.9	13.7	5.7	9.6	---
MSCI South Africa Index (N)	11/30/2017		9.7	13.1	5.4	10.0	---
Value Add			-0.8	0.6	0.3	-0.4	---
Quantum India*	12/08/2017	\$4,656,686	0.8	3.5	-6.7	-3.2	---
S&P BSE (SENSEX) 30 Sensitive	12/08/2017		1.6	6.0	4.5	13.1	---
Value Add			-0.8	-2.5	-11.2	-16.3	---
Acadian Emerging Markets Equity Fund	04/30/2018	\$46,655,408	8.2	11.8	7.7	17.4	---
MSCI Emerging Markets Index (N)	04/30/2018		7.5	11.8	7.7	18.4	---
Value Add			0.7	0.0	-0.1	-1.1	---
Russian Prosperity Fund*	06/28/2018	\$4,198,221	7.2	15.9	31.8	43.4	---
Russian Trading System Index (Net)	06/28/2018		8.5	17.8	37.4	54.7	---
Value Add			-1.3	-1.9	-5.6	-11.3	---

Rows marked with " \* " contain preliminary data.

## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	09/30/2017	\$1,842,938,898	1.7	4.9	8.5	16.9	7.1
<b>Interim Policy Benchmark<sup>1</sup></b>	09/30/2017		1.7	4.3	8.2	18.1	6.7
The Overlook Partners Fund L.P.	04/30/2019	\$31,207,120	5.3	11.9	---	---	---
MSCI AC Far East ex Japan (N)	04/30/2019		7.3	12.5	---	---	---
Value Add			-2.0	-0.7	---	---	---
<b>Global Managers*</b>	10/23/2017	\$296,943,066	2.6	10.2	10.8	26.3	---
MSCI World Index (N)	10/23/2017		3.0	8.6	13.5	27.7	---
Value Add			-0.4	1.7	-2.7	-1.3	---
Orbis Institutional Global Equity LP	10/23/2017	\$74,089,347	4.5	12.4	13.1	22.1	---
MSCI World Index (N)	10/23/2017		3.0	8.6	13.5	27.7	---
Value Add			1.6	3.9	-0.4	-5.5	---
Cat Rock Capital Partners, Ltd.	10/31/2017	\$61,407,805	0.3	9.4	6.0	21.4	---
MSCI World Index (N)	10/31/2017		3.0	8.6	13.5	27.7	---
Value Add			-2.7	0.8	-7.5	-6.3	---
Cedar Rock	10/31/2017	\$26,116,116	3.5	7.8	8.6	26.0	---
MSCI World Index (N)	10/31/2017		3.0	8.6	13.5	27.7	---
Value Add			0.5	-0.7	-4.9	-1.7	---
D.E. Shaw World Alpha Extension*	11/30/2017	\$55,369,003	2.9	8.7	11.3	24.7	---
MSCI World Index (N)	11/30/2017		3.0	8.6	13.5	27.7	---
Value Add			-0.1	0.2	-2.2	-3.0	---
Tiger Global Long-Only*	11/30/2017	\$37,903,660	3.0	13.3	9.3	34.5	---
MSCI ACWI Index (N)	11/30/2017		3.5	9.0	12.9	26.6	---
Value Add			-0.5	4.4	-3.6	7.9	---

## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	09/30/2017	\$1,842,938,898	1.7	4.9	8.5	16.9	7.1
<b>Interim Policy Benchmark<sup>1</sup></b>	09/30/2017		1.7	4.3	8.2	18.1	6.7
The Children's Investment Fund*	04/30/2018	\$42,057,135	1.9	8.6	17.7	40.5	---
MSCI World Index (N)	04/30/2018		3.0	8.6	13.5	27.7	---
Value Add			-1.1	0.0	4.2	12.9	---
<b>Hedge Funds*</b>	03/30/2018	\$301,594,350	1.7	4.8	8.2	17.3	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/30/2018		1.2	3.0	5.0	9.2	---
Value Add			0.6	1.8	3.2	8.0	---
<b>Hedged Equity*</b>	03/31/2018	\$166,285,299	1.1	5.0	9.0	21.1	---
Coatue Offshore Fund, Ltd.*	03/31/2018	\$16,095,142	-0.8	1.3	2.5	11.2	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			-1.9	-1.6	-2.5	2.0	---
Matrix Capital Management Fund (Offshore), Ltd.*	03/31/2018	\$27,518,590	1.7	6.8	17.0	31.3	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			0.5	3.9	11.9	22.0	---
Park Presidio Capital Offshore Fund, Ltd.	03/31/2018	\$22,881,086	0.4	2.6	10.3	20.7	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			-0.8	-0.3	5.3	11.5	---
Soroban Opportunities Cayman Fund Ltd	03/31/2018	\$27,307,733	3.5	11.3	18.0	40.2	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			2.3	8.4	13.0	30.9	---
Valinor Capital Partners Offshore, Ltd.*	03/31/2018	\$5,151,821	-1.3	6.7	-2.2	15.3	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			-2.5	3.8	-7.3	6.1	---

Rows marked with "\*" contain preliminary data.



## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	<b>09/30/2017</b>	<b>\$1,842,938,898</b>	<b>1.7</b>	<b>4.9</b>	<b>8.5</b>	<b>16.9</b>	<b>7.1</b>
<b>Interim Policy Benchmark<sup>1</sup></b>	<b>09/30/2017</b>		<b>1.7</b>	<b>4.3</b>	<b>8.2</b>	<b>18.1</b>	<b>6.7</b>
Lakewood Capital Offshore Fund, Ltd.	06/30/2018	\$30,130,792	1.3	6.2	10.5	24.5	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	06/30/2018		1.2	3.0	5.0	9.2	---
Value Add			0.2	3.3	5.4	15.2	---
Junto Offshore Fund Ltd.*	08/31/2018	\$37,200,136	0.5	1.1	4.7	8.3	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	08/31/2018		1.2	3.0	5.0	9.2	---
Value Add			-0.7	-1.9	-0.3	-0.9	---
<b>Absolute Return*</b>	<b>03/30/2018</b>	<b>\$135,309,052</b>	<b>2.6</b>	<b>4.6</b>	<b>7.3</b>	<b>12.7</b>	<b>---</b>
FORT Global Offshore Fund, SPC	03/30/2018	\$13,368,405	-0.7	-1.8	6.2	16.1	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/30/2018		1.2	3.0	5.0	9.2	---
Value Add			-1.9	-4.7	1.2	6.9	---
HBK Multi-Strategy Offshore Fund Ltd.*	03/31/2018	\$29,252,775	1.3	1.3	2.6	4.1	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			0.2	-1.7	-2.4	-5.2	---
Indaba Capital Partners (Cayman), L.P.*	03/31/2018	\$32,534,177	3.5	7.0	9.4	19.9	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			2.3	4.1	4.3	10.7	---
Senator Global Opportunity Offshore Fund II Ltd	03/31/2018	\$23,300,882	2.1	4.2	11.2	20.3	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	03/31/2018		1.2	3.0	5.0	9.2	---
Value Add			0.9	1.2	6.2	11.1	---
Lyxor Bridgewater Fund, Ltd.*	10/02/2018	\$27,376,876	3.4	7.2	4.1	-1.4	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	10/02/2018		1.2	3.0	5.0	9.2	---
Value Add			2.2	4.3	-0.9	-10.7	---

## PERFORMANCE CONTINUED

DECEMBER 31, 2019

Returns (%)	INCEPTION DATE	MARKET VALUE AS OF DEC 2019	MONTH TO DATE	QUARTER TO DATE	FISCAL YEAR TO DATE MAR	CUMULATIVE TRAILING 1 YEAR	ANNUALIZED SINCE SEP 2017
<b>Total Pension Plan (Net of All Fees)*</b>	09/30/2017	\$1,842,938,898	1.7	4.9	8.5	16.9	7.1
<b>Interim Policy Benchmark<sup>1</sup></b>	09/30/2017		1.7	4.3	8.2	18.1	6.7
Castle Hook Offshore Fund Ltd.*	10/31/2018	\$7,588,337	8.4	11.4	-2.8	3.0	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	10/31/2018		1.2	3.0	5.0	9.2	---
Value Add			7.3	8.4	-7.8	-6.2	---
Elliott International Limited	12/31/2019	\$1,887,600	---	---	---	---	---
0.3 Beta MSCI ACWI Index (N) <sup>2</sup>	12/31/2019		---	---	---	---	---
Value Add			---	---	---	---	---
<b>Private Equity<sup>*3,4</sup></b>	08/15/2011	\$325,547,635	---	---	---	---	---
<b>Private Real Estate<sup>*4</sup></b>	09/30/2017	\$5,227,376	---	---	---	---	---
<b>Private Credit<sup>*3,4</sup></b>	02/14/2014	\$122,218,766	---	---	---	---	---
<b>Fixed Income*</b>	09/30/2017	\$268,161,437	-0.2	0.0	4.3	6.8	3.1
BBG Barc Aggregate Bond Index	09/30/2017		-0.1	0.2	5.6	8.7	4.0
Value Add			-0.1	-0.2	-1.3	-2.0	-0.9
Parametric Fixed Income Futures	10/16/2017	\$49,003,001	---	---	---	---	---
PIMCO Total Return*	10/23/2017	\$122,374,215	0.0	0.4	5.2	8.5	---
BBG Barc Aggregate Bond Index	10/23/2017		-0.1	0.2	5.6	8.7	---
Value Add			0.0	0.2	-0.4	-0.2	---
DoubleLine Total Return Mandate	11/08/2017	\$96,784,222	-0.2	0.0	4.0	6.1	---
BBG Barc Aggregate Bond Index	11/08/2017		-0.1	0.2	5.6	8.7	---
Value Add			-0.1	-0.2	-1.6	-2.6	---
<b>Cash and Cash Equivalents<sup>*5</sup></b>	09/30/2017	\$76,568,856	---	---	---	---	---
<b>Synthetic Cash<sup>6</sup></b>	10/16/2017	-\$32,685,736	---	---	---	---	---

## TARGET VARIANCE (%)

DECEMBER 31, 2019

Total Pension Plan (Net of All Fees)	MARKET VALUE AS OF DEC 2019 (\$M)	CURRENT ALLOCATION	SHORT TERM TARGET	SHORT TERM TARGET VARIANCE	LONG TERM TARGET	LONG TERM TARGET VARIANCE		
<b>\$1,842,938,898</b>								
<b>Global Equity*</b>	<b>\$776.3</b>	<b>42.1</b>	<b>43.2</b>	<b>-1.1</b>	<b>40.0</b>	<b>2.1</b>		
<b>Hedge Funds*</b>	<b>\$301.6</b>	<b>16.4</b>	<b>17.0</b>	<b>-0.6</b>	<b>17.0</b>	<b>-0.6</b>		
<b>Private Equity*<sup>3,4</sup></b>	<b>\$325.5</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>	<b>15.0</b>	<b>2.7</b>		
<b>Private Real Estate*<sup>4</sup></b>	<b>\$5.2</b>	<b>0.3</b>	<b>0.3</b>	<b>0.0</b>	<b>3.0</b>	<b>-2.7</b>		
<b>Private Credit*<sup>3,4</sup></b>	<b>\$122.2</b>	<b>6.6</b>	<b>6.6</b>	<b>0.0</b>	<b>13.0</b>	<b>-6.4</b>		
<b>Fixed Income*</b>	<b>\$268.2</b>	<b>14.6</b>	<b>15.2</b>	<b>-0.6</b>	<b>12.0</b>	<b>2.6</b>		
<b>Cash and Cash Equivalents*<sup>5</sup></b>	<b>\$76.6</b>	<b>4.2</b>	<b>0.0</b>	<b>4.2</b>	<b>0.0</b>	<b>4.2</b>		
<b>Synthetic Cash<sup>6</sup></b>	<b>-\$32.7</b>	<b>-1.8</b>	<b>0.0</b>	<b>-1.8</b>	<b>0.0</b>	<b>-1.8</b>		

## ALLOCATION (%)

DECEMBER 31, 2019

	CURRENT MARKET VALUE	ALLOCATION AS OF AUG 2019	ALLOCATION AS OF SEP 2019	ALLOCATION AS OF OCT 2019	ALLOCATION AS OF NOV 2019	CURRENT ALLOCATION
Total Pension Plan (Net of All Fees)*	\$1,842,938,898	100.0	100.0	100.0	100.0	100.0
Global Equity*	\$776,306,213	42.8	42.2	42.5	42.3	42.1
U.S. Equity*	\$134,342,999	7.9	8.0	8.0	7.6	7.3
Developed ex. U.S. Equity*	\$224,662,698	12.5	12.4	12.4	12.1	12.2
Emerging Markets Equity*	\$120,357,449	6.2	6.4	6.4	6.2	6.5
Global Managers*	\$296,943,066	16.2	15.4	15.8	16.3	16.1
Hedge Funds*	\$301,594,350	16.7	16.3	16.3	16.6	16.4
Hedged Equity*	\$166,285,299	9.5	9.1	9.1	9.3	9.0
Absolute Return*	\$135,309,052	7.2	7.2	7.2	7.2	7.3
Private Equity* <sup>3,4</sup>	\$325,547,635	17.4	17.7	17.9	18.0	17.7
Private Real Estate* <sup>4</sup>	\$5,227,376	0.4	0.4	0.4	0.3	0.3
Private Credit* <sup>3,4</sup>	\$122,218,766	6.6	6.6	6.7	6.7	6.6
Fixed Income*	\$268,161,437	14.8	15.2	14.8	14.9	14.6
Cash and Cash Equivalents* <sup>5</sup>	\$76,568,856	4.0	5.5	3.6	3.5	4.2
Synthetic Cash <sup>6</sup>	-\$32,685,736	-2.8	-3.9	-2.2	-2.3	-1.8



Rows marked with " \* " contain preliminary data.

## END NOTES

DECEMBER 31, 2019

Due to the nature of Exchange Traded Funds (ETFs), passive index funds, and futures, options and other derivatives, these investments/contracts are not subject to the same monitoring or due diligence requirement as active managers. A list of investments in this portfolio that are excluded from monitoring can be provided upon request.

1. Please refer to the Benchmark End Notes document for additional details.
2. Benchmark is a blend of 30% MSCI All Country World Index and 70% 91-Day Treasury Bill Index.
3. On July 1st 2019, the following list of legacy Hamilton Lane Private Equity Funds were re-classified from Private Equity to Private Credit: Ascribe Opportunities Fund III, Castlake Aviation III Stable Yield, Castlake III, Castlake IV, Catalyst Fund Limited Partnership V, Highbridge Principal Strategies Mezzanine Partners III, Landmark Acquisition Fund VIII, Secondary Investment SPV-6, and TPG Opportunities Partners III.
4. Market values are as of 09/30/19 plus contributions and less distributions made through the current reporting period, with the exception of Abraaj Global Growth Markets Strategic Fund (B) and Penn Square Global Real Estate Fund II whose respective market values are as of 09/30/18 and 06/30/19, respectively, plus contributions and less distributions made through the current reporting period.
5. Cash and Equivalents includes the partial redemptions from Cat Rock Capital Partners, PIMCO, Senator Global Opp. Fund and Valinor Capital Partners Offshore; funding for capital calls for Blackstone Energy Partners II, Thompson Street Capital Partners V, Kelso Investments Associates IX and American Securities VII; a distribution from iShares South Africa ETF, and the holdback from Proxima Capital Offshore.
6. Synthetic Cash reflects the offsetting value for the Parametric derivative exposure.

## BENCHMARK END NOTES

DECEMBER 31, 2019

**Interim Policy Benchmark**

10/01/17 to 03/31/18: \*

52.7% MSCI All Country World Index (N)  
 2.0% S&P Global Natural Resources Index  
 12.3% MSCI All Country World Index (N) (Lagged)  
 13.0% FTSE® EPRA/NAREIT Developed Real Estate Index (Net) (Lagged)  
 4.0% Bloomberg Barclays U.S. TIPS Index  
 4.0% Bloomberg Barclays U.S. Corporate High Yield Index  
 2.0% J.P. Morgan Emerging Markets Bond Index Global Diversified  
 10.0% Bloomberg Barclays Aggregate Bond Index

04/01/18 to 05/31/18: \*

64.9% MSCI All Country World Index (N)  
 7.0% 0.3-Beta MSCI All Country World Index (N)  
 14.1% MSCI All Country World Index (N) (Lagged)  
 4.0% FTSE® EPRA/NAREIT Developed Real Estate Index (Net) (Lagged)  
 0.0% BofA Merrill Lynch U.S. High Yield Master II Index (Lagged)  
 10.0% Bloomberg Barclays Aggregate Bond Index

06/01/18 to Present: \*

41.0% MSCI All Country World Index (N)  
 17.0% 0.3-Beta MSCI All Country World Index (N)  
 16.2% MSCI All Country World Index (N) (Lagged)  
 7.3% FTSE® EPRA/NAREIT Developed Real Estate Index (Net) (Lagged)  
 0.0% BofA Merrill Lynch U.S. High Yield Master II Index (Lagged)  
 18.5% Bloomberg Barclays Aggregate Bond Index

\* For the purpose of the Interim Policy Benchmark calculation, any Private Equity and Private Real Assets over or underweights versus their Long-Term targets are re-allocated to Global Equity. In addition, any Private Credit over or underweight versus the Long-Term target is allocated 50% to Global Equity and 50% to Aggregate Fixed Income. As a result, the Interim Policy Benchmark's weightings may change over time as the Portfolio's asset weights change.

## METHODOLOGY & CALCULATIONS

DECEMBER 31, 2019

Cambridge Associates LLC (CA) has established a proprietary database to monitor a client's portfolio across managers, asset classes, and at the total assets level. Users of the analysis may find the following description of the data sources, classification of investments, and the calculation techniques helpful in their interpretation of information that may be presented in the Investment Performance Report. Please note that certain data and calculation methodologies have evolved over time and may be time boxed to specific periods using a methodology wall specific to each client.

1. Investment manager statements are the primary source of information concerning client market values, returns, and cash flow transactions. In cases where managers are unable to provide data or where CA is otherwise instructed, other data sources may be substituted including, but not limited to custodian and/or client provided data. CA may also make use of third party data vendors to source fund-level returns.
2. Investment manager inception dates represent the initial funding dates unless otherwise indicated. Tracked performance begins on the first day after the manager inception date unless otherwise instructed.
3. All performance figures are shown on a total return basis and in U.S. Dollars unless otherwise indicated. All return time periods over one year are annualized unless otherwise indicated. Annualized returns follow an actual month/12 convention with the exception of the annualized since inception return, which follows an actual day/365 convention to account for non-month-end inception dates.
4. All returns presented in marketable performance reports are time-weighted unless otherwise indicated. A time-weighted return (TWR) measures the return of a single dollar invested continuously for a specific time period. TWRs provide equal weight to each time period, thereby neutralizing the impact of external cash flows. In contrast to money-weighted returns, TWRs are not influenced by withdrawals or contributions to the portfolio. Due to most long-only and hedge fund managers' lack of direct influence over the timing of investor cash flows, a TWR allows for more appropriate performance evaluation for marketable investments.
5. Preliminary Data is used in cases when the final performance figures for the period have not been supplied by a manager or custodian at the time the report is produced. To arrive at preliminary figures, CA may utilize one of the following approaches:
  - CA may report preliminary performance figures as provided by a manager or custodian when available.
  - CA may calculate performance using the previous period ending market value, cash flows that occurred during the period, and current period ending market value, as reported by a manager or custodian. If there are no cash flows, CA will use the 0% return that results from the calculation. For any situations that CA rolls forward performance using cash flows that are in a currency other than the reporting currency, CA applies the exchange rate at the end of the period to the preliminary market value at the end of the period.
  - CA may use proxy return information to estimate a preliminary market value. A proxy might be an investment vehicle offered the same manager with a similar strategy, but using a different fund structure, e.g. a mutual fund version in place of a separate account. A proxy could also be an index that has been set by the investment team that closely mirrors the investment goals of the investment, potentially the same index as the benchmark for the investment.

For information on the specific approach used, please reach out to your performance analyst or team.
6. Marketable investment manager returns are tracked through CA's proprietary performance database system on a monthly basis. If monthly returns are unavailable, quarterly returns may be substituted. All returns for periods longer than one month are calculated by geometrically linking the monthly returns. All returns are net of management fees unless otherwise indicated.
7. In some cases, performance figures reported by a manager are gross of fees. CA will attempt to convert gross returns to returns net of fees to allow for a more fair comparison across managers. CA may utilize one of the following approaches for handling performance received as gross:
  - CA may leave the reported performance figure as a gross return and footnote that the performance is gross.
  - CA may calculate the return by revising the reported ending market value based on cash flow information from the custodian or manager that is specifically for fees.
  - CA may calculate the return using the reported fee structure of the investment.

For information on the specific approach used, please reach out to your performance analyst or team.
8. In cases where CA is instructed to report a return net of CA fees, the quarterly fee paid by the client is divided into equal monthly tranches. Each monthly tranche is divided by the respective average capital base and multiplied by 100 to be additive with the time weighted return. For more information on adjusting performance for CA fees, please reach out to your performance analyst or investment team.
9. Hedge Fund (HF) manager returns are presented net of both management and incentive fees unless otherwise labeled. Detailed analysis of HF returns, long/short positions, and strategy exposures are available in a separate HF Performance Report for HF Performance Reporting subscribers.

## METHODOLOGY & CALCULATIONS

DECEMBER 31, 2019

10. For periods prior to the methodology wall, returns for Private Investments (PI) included in marketable reports are quarterly Internal Rates of Return (IRR's) calculated by CA's proprietary PI database. The IRR (Net to Limited Partner) reflects the client's return on its investment in the partnership net of fees, expenses, and carried interest received by the general partners. In order to transform the quarterly money-weighted return (IRR) series into a monthly time-weighted series for use in marketable reporting, CA follows the following convention: 0% return (first month), quarterly IRR (second month), 0% return (third month). Aggregated PI cash flows are stored on the quarterly mid-point. For periods after the methodology wall, PI returns included in marketable reports are calculated monthly using Modified Dietz. PI cash flows are tracked daily on the specific dates they occur. Since PI valuations are typically reported quarterly, market values in the first and second months of the quarter will be reported using the last known quarterly valuation adjusted for interim cash flows. As a result, the primary performance impact of PI will be realized in the third month of the quarter, consistent with the reporting date of most PI funds. Due to the timing of information availability from private investment managers, PI returns are reported on a one-quarter lag. See section 11 below to understand how performance is calculated for current periods given the lag in PI reporting. Detailed analysis of PI money-weighted returns, commitments, and strategy exposures are available in a separate PI Performance Report for PI Performance Reporting subscribers.
11. Given the majority of Private Investment managers provide performance on a quarter lag and will not typically report a preliminary number, CA may utilize one of the following approaches:
  - CA may carry forward the ending market value of the previous period resulting in a 0% return (excluding any currency effects).
  - CA may roll forward the market value from the previous period using cash flows as reported to a custodian. For any situations that CA rolls forward performance using cash flows that are in a currency other than the reporting currency, CA applies the exchange rate at the end of the period to the preliminary market value at the end of the period.
  - CA may use a public index as a proxy return for a private investment.

For information on the specific approach used, please reach out to your performance analyst or team.
12. CA utilizes trade date accounting, with purchases or sales recognized on the date of purchase or sale and not the settlement date. Additionally, CA utilizes an end-of-day cash flow methodology, with all cash flows assumed to occur after the close of business for calculation purposes. It is possible that CA's cash flow dates may deviate from the dates reported from other sources due to differences in methodology, timing, intended consumer, etc.
13. Composites (synonymous with sleeves) represent a collective value for a grouping of similar investments as if their underlying assets were pooled into one "master portfolio". Investments are assigned to a particular composite according to the classification of their investments and the specific objectives of the client. For periods prior to the methodology wall, composite performance is calculated by asset-weighting individual investment-level returns by each investment's average capital base (ACB) as a percentage of the total composite ACB. The ACB consists of an investment's beginning market value adjusted for the daily-weighted cash flows during the period. Due to the daily weighting methodology, cash flows occurring earlier (later) in the period will have a greater (lesser) weight in the ACB calculation. For periods after the methodology wall, composite performance is calculated using Modified Dietz. Modified Dietz involves pooling the market values and cash flows of the underlying investments and calculating a return based on the net profit or loss of the composite divided by the composite's ACB. If a composite experiences a large intra-month cash flow (defined as a net cash flow of greater than 20% of the composite's beginning market value), the composite will be revalued and divided into one or more sub-periods that will be geometrically linked to calculate the monthly return.
14. The CA Manager statistics, consisting of Medians, Universe Size, and Percentile Ranking are derived from CA's proprietary database covering investment managers and exclude managers that exclude cash from their reported total returns. For calculations including any years from 1998 to the present, those managers with less than \$50 million in product assets are excluded. Returns for inactive (discontinued) managers are included if performance is available for the entire performance period measured. The Medians will not include simulated performance series provided by managers.
15. CA Manager Medians are compiled at each quarter end. CA Percentile Rankings are based upon a scale of 0 to 100, where 0 represents the best performing and 100 the worst. Returns in place for less than the full quarterly period are not ranked.
16. As a result of CA's methodology, it is incorrect to link quarterly medians to come up with a median over an extended time period. The compounded median that would result from such a calculation would be different from the 50th percentile manager ranking for the complete time under consideration.
17. The CA Preliminary Peer Medians are populated from CA's Client base, the majority of which are tracked by the Performance Reporting department. All Taxable Clients are excluded from the universe. The CA Preliminary Peer Medians are compiled on a quarterly basis and Median returns are available approximately starting four weeks after quarter end. As CA's Client base reports in, the universe size will grow accordingly. A minimum of 15 Clients must be present for the CA Preliminary Peer Medians to be generated for the given time period. Approximately six weeks to eight weeks after quarter end, the CA Preliminary Peer Medians have the capability to be filtered by asset size and institution type. The Preliminary Peer Medians return and percentile rankings within the universe reported in any given Performance Report will be dependent on the available universe of similar institutions at the time the report is prepared.
18. Index returns are reported on the same basis as investment manager returns. Performance is shown on a total return basis, where tracked performance begins first day after investment manager inception unless otherwise stated. If an index is unavailable for the current period or a partial period, CA will use an assumption-based method, including but not limited to, a 0% return, the trailing twelve month average for the index, or a constant daily return derived from the monthly return in the case of partial periods. Please see Index Vendor list for source disclosure.



## INDEX SOURCES AND DISCLAIMERS

DECEMBER 31, 2019

The Investment Performance Report was prepared using a subset of the listed Index Data providers below:

Barclay Trading Group	CS First Boston High-Yield Market Research Group	Hambrecht & Quist Hedge Fund Research, Inc.	National Council of Real Estate Investment Fiduciaries
Barclays	Deutsche Bank	Hoare Govett Corporate Finance Ltd.	OECD
BARRA	Dow Jones Indexes	HSBC	Property & Portfolio Research, Inc.
Barron's	Edward I. Altman - NYU Salomon Center	ING Barings	Price Group
Bloomberg L.P.	Eurekahedge	International Finance Corporation	Prudential Real Estate Investors
BofA Merrill Lynch	European Public Real Estate Association	J.P. Morgan Securities, Inc.	Salomon Smith Barney
British Bankers' Association	FactSet Research Systems, Inc.	JPMorgan H&Q	Standard & Poor's
Cambridge Associates LLC	FBC High Yield Research	Kinder, Lydenberg, Domini & Co., Inc.	Standard & Poor's Compustat
Chase Manhattan Bank	Federal Reserve	Lipper Inc.	SWX Swiss Exchange
Commodity Research Bureau	Frank Russell Company	MSCI Inc.	Thomson Reuters Datastream
<i>Common-Stock Indexes (Cowles Commission)</i>	FTSE Fixed Income LLC	Morgan Stanley Dean Witter	UBS Global Asset Management
Credit Lyonnais Securities Asia	FTSE International Limited	National Association of Real Estate Investment Trusts	U.S. Dept of Labor - Bureau of Labor Statistics
Credit Suisse	Goldman, Sachs & Co.		<i>The Wall Street Journal</i>
CS First Boston Corp.	Grantham, Mayo, Van Otterloo & Company		Wilshire Associates, Inc.
			WM Company

Notwithstanding any specific disclosure provided below, indexes listed above and used in this report are the property of the named provider of such index. Each index is used with the permission of, or has been property of the named provider of such index. Each index is used with the permission of, or has been the index provider. Neither CA nor individual index providers are responsible for any loss, damage, cost or expense suffered as a result of any use of, or reliance on, any of the information. Broad-based securities indexes are unmanaged and are not subject to fees and expenses typically associated with managed accounts or investment funds. Investments cannot be made directly in an index.

Note: The 91-Day Treasury Bill Index sources the BofA Merrill Lynch 91-Day Treasury Bills Index from Jan 1978 to present.

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Pre-1978 data represents returns calculated by Cambridge Associates using yields from the Federal Reserve.

Total returns for MSCI Emerging Markets and All Country indices are gross of dividend taxes unless specifically noted with (NET). Total returns for MSCI developed markets indices are net of dividend taxes.

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Source: FTSE 2020. To the extent permissible by law, FTSE accepts no liability for errors or omissions in the data.

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## GENERAL DISCLAIMERS

DECEMBER 31, 2019

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As part of the reporting process, errors can and do occur. For the purpose of CA reports, an error represents any component of the performance report that is missing or inaccurate, including, but not limited to, composite returns and market values, manager returns and market values, benchmark returns, risk and other statistical measures, holdings and exposures. Errors can be a result of incorrect aspects of data, calculations, setup, and software or may be a result of an omission, incorrect value, incorrect systematic computation, incorrect report production, and other similar reasons. For classification as an error, the item in question must be objectively incorrect according to the standard policies, procedures, and methodologies utilized by CA. Differences due to changes in methodology over time, the difference between preliminary and final data and other related changes do not constitute errors, but rather normal course of business for the reporting process. Though CA makes reasonable efforts to discover inaccuracies in the input data used in the performance report, CA cannot guarantee the accuracy and are ultimately not liable for inaccurate information provided by external sources. Clients should compare the values shown on our performance reports with the statements sent directly from their custodians, administrators or investment managers.

In the event that an error is discovered, CA will correct the error and maintain the most accurate information possible. In the event of a material error, CA will disclose the error to the report recipient along with an updated version of the report from the most recent period.

CA's performance report is intended to be offered as a standardized product. CA may be instructed by the client to customize aspects of the report outside of CA's standard policies and procedures. Deviating from CA's standard operating policies and procedures can compromise the quality of the report and increase the risk of errors. Customization requests cannot be accommodated in all cases if it is deemed that necessary systems and controls are not in place to minimize errors or reduce the validity of the report. Customizations including but not limited to data sourcing, data input, methodologies and report display are acknowledged by the recipient as potentially compromising to the quality of the deliverable and the recipient bears joint responsibility for any ensuing quality breaches as a result of these customizations.

**AFM-EPF**

Monthly Report as of December 31,2019

<b>Guidelines Compliance</b>							
<b>Asset Allocation:</b>	<b>Assets</b>	<b>Current Weights</b>	<b>Interim Target<sup>1</sup></b>	<b>Long-Term Target</b>	<b>Long -Term Range</b>	<b># of Managers<sup>2</sup></b>	<b>Constraint</b>
	<b>\$M</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>		
Global Equities	776.3	42	43	40	25 - 65	25	>4
Hedge Funds	301.6	16	17	17	0- 25	14	>8
Private Equity <sup>3</sup>	325.5	18	18	15	0 - 25	20	>8
Private Real Estate	5.2	0	0	3	0- 10	2	>4
Private Credit <sup>3</sup>	122.2	7	7	13	0- 20	7	>4
Agg. Fixed Income	268.2	15	15	12	0 - 25	2	>=2
Cash and Equivalents	43.9	2	0	0	0 - 10		
<b>Portfolio Liquidity:</b>	<b>Current (\$M)</b>			<b>Constraint</b>			
Within One Month	702.9	38%		----			
One Month to One Year	452.7	25%		----			
Greater than One Year	687.3	37%		----			
<b>Investment Constraints:</b>	<b>Current (\$M)</b>			<b>Constraint</b>			
Largest fund/account position ex FI	74.1	4%		<10%			
Largest fund/account position (FI)	122.4	7%		<10%			
Gross notional derivatives exposure	112.2	6%		<10%			
Portfolio leverage	0.0	0%		<5%			

[1] As of October 2017 the Interim Policy Benchmark reflects the Interim Policy Benchmark as defined in the Investment Policy Statement approved September 2017 and amended in March 2018 and May 2018. The Interim benchmark uses the actual weight of the Private Equity and Private Real Assets composites, and redistributes the difference between

the actual and target weights to the Global Equity benchmark component, and uses the actual weight of the Private Credit composite, and redistributes the difference between the actual Private Credit weight and target weight 50% each to the Global Equity and Fixed Income components. Prior to Oct. 2017 the benchmark reflects the Meketa Custom Benchmark.

[2] "Number of Managers" constraint for Private Equity and Private Real Estate in effect once the portfolio is mature. Number of Private Equity and Private Credit managers is since CA inception.

[3] On July 1st 2019, the following list of legacy Hamilton Lane Private Equity Funds were re-classified from Private Equity to Private Credit: Ascribe Opportunities Fund III, Castllake Aviation III Stable Yield, Castllake III, Castllake IV, Catalyst Fund Limited Partnership V, Highbridge Principal Strategies Mezzanine Partners III, Landmark Acquisition Fund VIII, Secondary Investment SPV-6, and TPG Opportunities Partners III.

All numbers shown are preliminary and subject to change based on final reported values. Numbers may not sum due to rounding.



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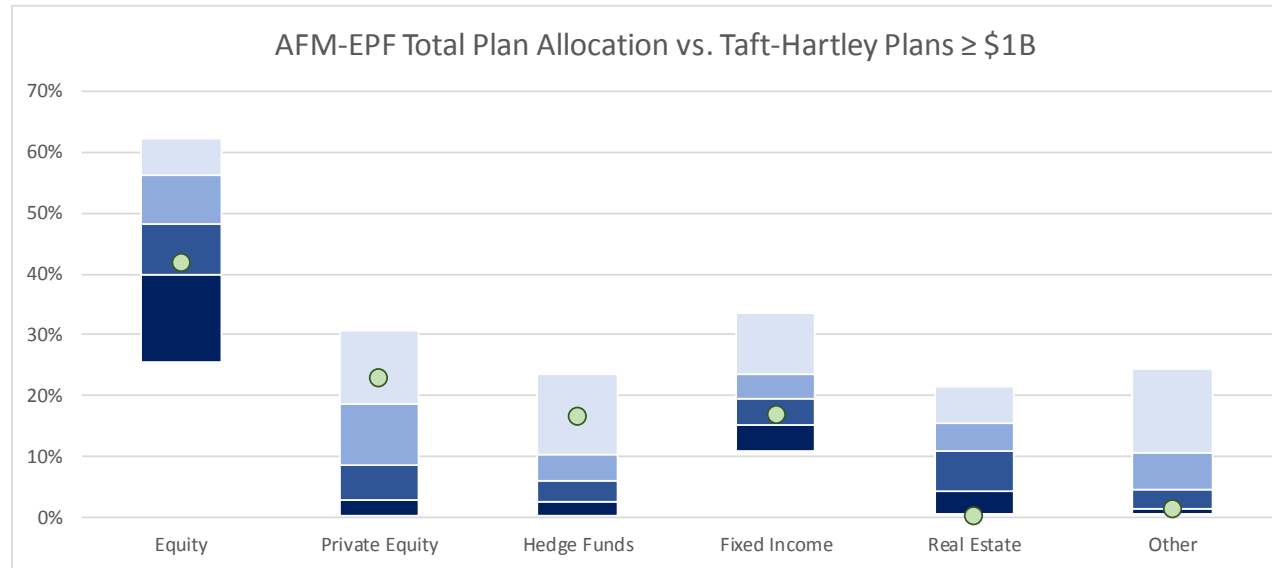
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## InvestorForce Asset Allocation Summary

Taft-Hartley Plans  $\geq$  \$1B

	Equity	Private Equity	Hedge Funds	Fixed Income	Real Estate	Other
AFM-EPF	41.8%	22.9%	16.6%	16.9%	0.4%	1.5%
95th Percentile	62.1%	30.6%	23.4%	33.6%	21.5%	24.4%
75th Percentile	56.3%	18.6%	10.5%	23.7%	15.5%	10.6%
Median	48.3%	8.7%	5.9%	19.7%	11.0%	4.7%
25th Percentile	40.0%	3.0%	2.7%	15.2%	4.3%	1.6%
5th Percentile	25.4%	0.2%	0.2%	10.9%	0.5%	0.5%

**Notes:**

All data is as of 6/30/2019 and there were 45 Taft-Hartley plans  $\geq$  \$1b reporting returns as of 6/30/2019.

Of those, 36 reported asset allocation data - 7 have no data and 2 have data that is obviously incomplete.

*Private Equity* also includes Venture Capital and *Other* includes multi asset, balanced and GTA allocations, and Cash.

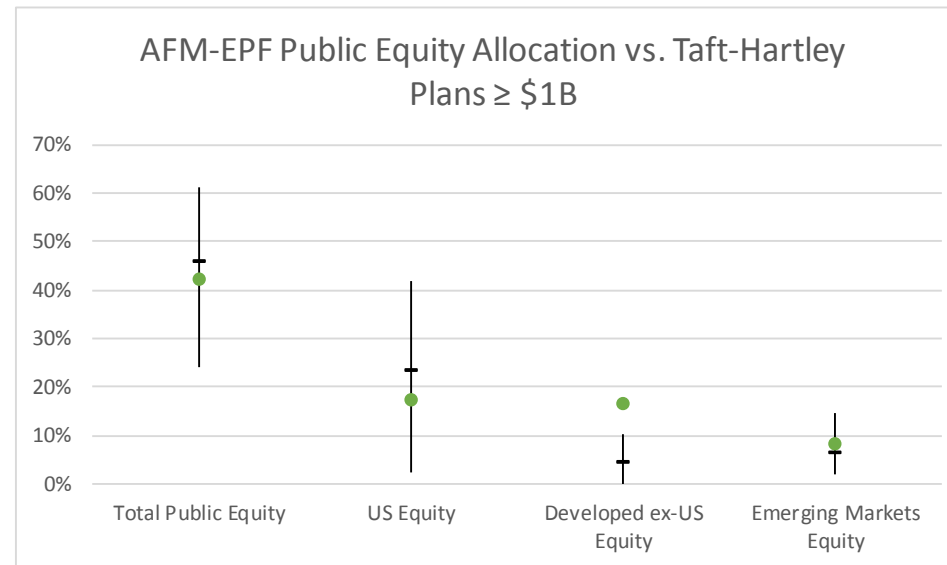
Different funds may report allocations and classify investments inconsistently.

**Disclaimer:** While this is provided for informational purposes, the utility of this comparative information is limited. The investment allocation of any plan, including AFM-EPF, is developed based on a variety of factors unique to the plan, such as investment goals and philosophy, funding levels, risk tolerance and time horizon. Accordingly, this comparison, standing alone, does not indicate the appropriateness of any particular allocation.

## InvestorForce Public Equity Summary

Taft-Hartley Plans  $\geq$  \$1B; data as of 6/30/19

**Disclaimer:** While this is provided for informational purposes, the utility of this comparative information is limited. The investment allocation of any plan, including AFM-EPF, is developed based on a variety of factors unique to the plan, such as investment goals and philosophy, funding levels, risk tolerance and time horizon. Accordingly, this comparison, standing alone, does not indicate the appropriateness of any particular allocation.



	Total Public Equity	US Equity	Developed ex-US Equity	Emerging Markets Equity
AFM-EPF	42.2%	17.5%	16.6%	8.1%
Maximum	61.3%	41.9%	10.1%	14.6%
Average	45.6%	23.4%	4.4%	6.3%
Minimum	24.1%	2.4%	0.2%	2.1%

**Notes:**

All data is as of 6/30/2019 and there were 45 Taft-Hartley plans  $\geq$  \$1b reporting returns as of 6/30/2019.

Of those, 12 reported public equity classifications consistent with AFM-EPF's classifications.

For all 12 plans, the sum of the equity sub-asset classes did not equal the total equity percentage for the plan. We cannot account for this.

AFM-EPF's Global Equity managers are apportioned to the 3 categories above based on their benchmark composition, and AFM-EPF is not included in the 12 reported plans.

Different funds may report allocations and classify investments inconsistently.



Sources: AFM-EPF data from Cambridge Associates and comparative data from InvestorForce



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# EXHIBIT 6



### **OCIO Monitor RFP Procedure**

A request for proposal will be sent to at least four of the following firms, selected by the Investment Committee, with input from the independent fiduciary.

- New England Pension Consultants
- Segal Marco
- Marquette
- Opus Advisors
- AllanBiller
- Clearbrook

Request for proposal will explain scope of work, which will include periodic review of the OCIO performance and establishment of asset allocation targets (subject to instructions from Trustees on investment risk and return objectives and the Trustees' right to veto proposed targets).

Request for proposal will ask questions in the following categories:

- Organizational background
- Proposed service team
- Fiduciary status and conflicts of interest
- Governmental investigations and litigation
- Methodology
- Qualifications, including Taft-Hartley experience
- Reporting
- Fees
- Representative clients/references
- Distinguishing characteristics of consultant

As part of the RFP process, the Neutral Independent Fiduciary Trustee will be responsible for advising the RFP candidates of the claims that were asserted in the Action relating to asset allocation and the use of actively managed funds based on the Neutral Independent Fiduciary Trustee's review of certain lawsuit materials including the parties' respective expert reports.

Responses to proposal will be summarized in comparative format for Trustees/ Neutral Independent Fiduciary Trustee review.

Investment Committee will review and, with input from the independent fiduciary, select at least two finalists for interviews.

Investment Committee and the Neutral Independent Fiduciary Trustee will recommend a candidate to the Board for approval. To the extent there is any disagreement regarding the recommendation, the Board minutes will include the Neutral Independent Fiduciary Trustee's written description of his or her reasons for such disagreement and the Neutral Independent Fiduciary Trustee shall be permitted to review and comment on the full description of the relevant discussion in the relevant portion of the minutes.

# EXHIBIT 7

### **Process for Selecting a Replacement Neutral Independent Fiduciary Trustee**

Should the Neutral Independent Fiduciary Trustee become unable to perform his or her functions due to resignation, death, or inability to serve, or if the Neutral Independent Fiduciary Trustee should be discharged for the “good cause” referenced in the Settlement Agreement (i.e., a failure to adequately perform the responsibilities and functions set forth in the Settlement Agreement but not for making recommendations adverse to the decisions of the Trustees) after vote, on the record, of a majority of the Employer-side Trustees and Union-side Trustees, the Trustees shall replace the Neutral Independent Fiduciary Trustee for the remainder of the required term, and the replacement shall have the authority and responsibility as contemplated by the Settlement Agreement for the Neutral Independent Fiduciary Trustee.

Before selecting the replacement, the Trustees and Fund Counsel shall meet with and evaluate at least two (2) replacement candidates. The Trustees and/or Fund Counsel shall also provide written notice to Class Counsel regarding the reasons for replacing the Neutral Independent Fiduciary Trustee and the candidate ultimately selected to serve as a replacement. If competent to do so, the Neutral Independent Fiduciary Trustee shall also provide Class Counsel with written notice of his or her views regarding the propriety of his or her discharge. The candidate selected as the Replacement Neutral Independent Fiduciary Trustee shall be a person or entity with experience acting as an independent fiduciary or otherwise as a fiduciary or advisor to pension plan fiduciaries in fulfilling their responsibilities with respect to pension investment and/or actuarial matters.

The candidate selected shall be alerted to the claims advanced in the Action and be provided the Settlement Agreement, the parties’ respective expert reports, and the responsibilities of the Neutral Independent Fiduciary Trustee.

The identity of the Replacement Neutral Independent Fiduciary Trustee shall be disclosed on the Plan’s website, along with a bio and any other experience relevant to the Replacement Neutral Independent Fiduciary Trustee’s qualifications to serve as an independent fiduciary, along with the written notices provided to Class Counsel referenced above. Any disputes regarding replacement of the Neutral Independent Fiduciary Trustee shall be submitted to the Court.