

NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND



DECEMBER 17, 2024
TEAMS MEETING
1:00 PM
AGENDA AND REPORTS

Meeting Location:

Microsoft Teams

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STATEMENT OF COMPLIANCE

In accordance with the Open Public Meetings Act and the Emergency Remote Meeting Protocol for Local Public Bodies, adequate and electronic notice of this remote meeting have been provided by:

1. Sending advance written notice to The Star Ledger and the Record
2. Filing advance written notice of this meeting with the Clerk/Administrator of each member.
3. Sending advance electronic mail notice of this meeting to the Clerk/Administrator of each member.
4. Posting electronic notice of this meeting on the Fund's website which notice provided the time, date and instructions for: (i) access to the Remote Public Meeting, (ii) how to provide public comment and (iii) how to access the agenda.
5. Posting a copy of the meeting notice on the public bulletin board of all members.
6. Posting notice on the outside front door of Randolph Township Hall located at 502 Millbrook Ave, Randolph NJ 07869, clearly visible from the outside.
7. During the business session portion of this Remote Public Meeting the audio of all members of the public attending the meeting will be muted. At the end of the business session of the meeting, a time for public comment will be available. Members of the public who desire to provide comment shall raise their virtual hand in the Zoom application and/or submit a written comment via the text message section of the application and/or press #9 on their telephone if attending via the service number. The meeting moderator will queue the members of the public that wish to provide comment and the Chairperson will recognize them in order. Public comment shall be concise and to the point and shall not contain abusive, defamatory, or obscene language.

**NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND
 AGENDA MEETING: OCTOBER 24, 2024
 RANDOLPH TOWNSHIP HALL
 9:30 AM**

MEETING CALLED TO ORDER - OPEN PUBLIC MEETING NOTICE READ

FLAG SALUTE

ROLL CALL OF 2024 EXECUTIVE COMMITTEE

2024 Executive Committee	
Scott Heck, Chair	Borough of Ringwood
Thomas Russo, Secretary	Town of Newton
Barbara Russo	Township of Berkeley Heights
Tammy Smith	Knowlton BOE
Silvio Esposito	Township of Hanover
Carrine Piccolo- Kaufer	Township of Hardyston
Greg Poff	Randolph Township
Executive Committee Alternates:	
Adam Brewer	Township of Pequannock
Dina Valente - Stoel	Borough of Lincoln Park
OPEN	

PROFESSIONALS REPORTS:

ATTORNEY - (Edward Pasternak and Fred Semrau, Esq)

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OLD BUSINESS

NEW BUSINESS

PUBLIC COMMENT

MEETING ADJOURNED

DORSEY & SEMRAU

FRED SEMRAU*
DAWN M. SULLIVAN**
SUSAN C. SHARPE**
ROBERT ROSSMEISSL**
EDWARD PASTERNAK**
JONATHAN TESTA**
KYLE FISHER
NICHOLAS WALL
JEFF FRANKENBURGER
*PARTNER
** SENIOR ASSOCIATE

ATTORNEYS AT LAW
714 MAIN STREET
BOONTON, NJ 07005
973-334-1900
FACSIMILE 973-334-3408

IN MEMORIAM:
JOHN H. DORSEY
(1937-2018)

Memorandum Privileged and Confidential

To: NJMEBF Contracts Committee

From: Fred Semrau, Esq.
Ed Pasternak, Esq.

Date: 12/12/24

Re: Insulin Litigation Agreement

Kindly accept this memorandum as to the above captioned topic.

I. The Recommendation:

It is our recommendation that the Fund enter into an agreement with the Seeger Weiss law firm, with regard to litigating the Fund's interests in a pending insulin pricing lawsuit.

II. Brief Background:

As you know, an "Insulin Pricing Scheme" lawsuit (MDL No. 3800 United States District Court District of New Jersey) has been filed. Our firm was contacted by the Laddey, Clark law firm, seeking to represent the Fund's interests in this claim, which alleges that insulin manufacturers and Pharmacy Benefit Managers (PBMs) have artificially inflated the price of insulin at the expense of self-funded health plans and their members and beneficiaries. The defendants in the case are manufacturers Eli Lilly, Novo Nordisk and Sanofi, and PBMs Express Scripts (currently a contractor to the Fund), CVS Caremark and Optum RX.

The following law firms have submitted proposed contingency fee agreements for consideration: The Laddey, Clark & Ryan firm, located in Sparta NJ; the law firm of The Franz Law Group, located in San Diego CA; and the law firm of Seeger Weiss, located in Ridgefield Park, NJ.

As a direct purchaser of insurance for municipalities, the Fund has standing as a party in this litigation, and does have recoverable damages. By way of further detail, the litigation is filed in Newark, NJ, and is currently assigned to Judge Brian Martinotti. Indeed, the litigation is quite similar in structure to the previous "PFAS" litigation, and under each of the above-referenced proposed agreements, there would be no cost to the Fund as a

party, and whichever law firm the Fund might choose, that firm would be working closely with national counsel to ensure representation of the New Jersey parties.

We would recommend the Fund join this litigation as a party, and we have thus inquired of the Fund program manager to estimate insulin costs and to further inquire of Express Scripts as the Fund's PBM—again, a business entity who is named as a Defendant in the case.

III. Analysis

A. Laddey, Clark & Ryan

The Laddey firm has submitted a proposed contingency fee agreement which reflects contingency fees calculated from 15% to 30% of Gross Recovery. However, the Laddey firm has some cases against some local public entities. Based upon this backdrop, we would suggest not entering any agreement with them on this basis. The Laddey, Clark & Ryan proposed engagement letter is attached herein at Exhibit A.

B. The Franz Law Group

The Franz firm has also submitted a proposed contingency fee agreement, not scaled, but instead reflecting 30% of any settlement or recovery. As such, it is less attractive to the fund, and moreover, as the fund is located out of state, the Franz Group is not affiliated with any local New Jersey counsel. While certainly not fatal in federal litigation by any means, we nonetheless suggest the Fund's interests are best served by having local New Jersey counsel. The Franz Law Group's proposed engagement letter is attached herein at Exhibit B.

C. Seeger Weiss

The Seeger Weiss firm has also submitted a proposed contingency fee agreement, which matches the terms as set forth by the Laddey firm (which again is scaled, and capped at 30% of Gross Recovery). This type of litigation is the work they generally perform, they do not have any claims against our members or other public entities (that we are aware of), and it is fair to conclude the Fund would have more of a "direct" representation with Seeger Weiss than having Laddey, Clark & Ryan acting "as a middleman." As an aside, when the Seeger firm first sent their proposal, they offered to share their fee with our office--but we rejected that offer. Lastly, and as noted on the letterhead of the Laddey, Clark & Ryan proposal, the Seeger Weiss firm is actually listed as "national counsel" on the matter--and just happens to be located in New Jersey. As such, the Seeger firm would as a practical matter serve the role of being the Fund's "local counsel" and we further understand that the Seeger firm is also representing Monmouth County in this litigation in that same capacity.

In sum, and for all these reasons, we would suggest entering into an agreement with the Seeger firm, as described above. The Seeger Weiss proposed engagement letter is attached herein at Exhibit C.

IV. Other Considerations

Based on the U.S. Senate hearings held on this insulin overpricing scheme, there is

arguably a statute of limitations prohibition for any new plaintiffs to enter the case after January 14, 2025. For this reason, time is of the essence, and we would suggest executing the contingency agreement with the Seeger firm so as to allow them to add the Fund to the litigation before that date.

V. **Conclusion**

In consideration of the foregoing, we would recommend the Contracts Committee recommend to the governing body that it retain the Seeger Weiss firm to pursue the Fund's interests.

If you have any questions, please do not hesitate to contact us.

RESOLUTION NO. 24-35

**NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND
RESOLUTION TO ENTER AGREEMENT WITH SEEGER WEISS LAW FIRM IN PENDING
INSULIN PRICING LAWSUIT**

WHEREAS, the North Jersey Municipal Employee Benefits Fund (hereinafter “the Fund”) was approached by a law firm, seeking to represent the Fund’s interest in the “Insulin Pricing Scheme” lawsuit (MDL No. 3800 United States District Court District of New Jersey; and

WHEREAS, the Fund does have recoverable damages, as the lawsuit names the current Pharmacy Benefit Manager, Express Scripts, as a defendant; and

WHEREAS, the Fund Attorney analyzed three different law firms that submitted proposed contingency fee agreements to represent the Fund in the lawsuit; and

WHEREAS, the Contracts Committee evaluated the proposals from all three law firms provided by the Fund Attorney; and

NOW, THEREFORE, BE IT RESOLVED the Fund approves the recommendation to retain the Seeger Weiss firm to pursue the Fund’s interests in the “Insulin Pricing Scheme” lawsuit.

ADOPTED:

BY: _____
CHAIR

ATTEST:

SECRETARY