**National FCA 2010 Annual Council**
Leadership Council
Gary Meyers – IUPAT National Pension Fund Administrator
June 19, 2010 – New York City

(Refer to Gary Meyers's PowerPoint presentation handout materials.)

- On January 1, 2008, the Pension Plan was considered to be in the green status under the standards of the 2006 Pension Protection Act (PPA). However, in 2008, and the first half of 2009, the key measurements in the stock market fell more than 40 percent.
- As a result of the stock market decline, the Pension Plan suffered a 23.6 percent loss – approximately $800 million. As of December 31, 2008, the Pension Plan had assets of $2.478 billion from a high of $3.2 billion. Those losses put our funding at 71.6 percent. The new funding level moves the status of the Plan under the PPA from green to yellow.
- The IUPAT Funding Improvement Plan:
    - Effective January 2, 2012, the hourly contribution rate will be increased by a supplemental contribution equal to 35 percent of that rate. This supplemental contribution will not yield any additional pension benefit for the participant
- **Update**:
    - During 2009, the IUPAT Pension Plan yielded a 9.4 percent return on investments.
    - Net assets up to $2.532 billion as of December 31, 2009
    - January 1, 2010, the funding level is estimated to be 73.2 percent. This is up from 71.6 percent on January 2, 2009.
    - Status of plan under PPA right now is yellow, endangered.
    - Current actuary assumed rate of return is at 7.5 percent.

<u>**Questions**</u>

1. **How can a contributing employer to the IUPAT National Pension Fund obtain an estimate of its current withdrawal liability?**
   Ask. We will provide this information, free of cost, once a year. Your information will be returned within 180 days, but usually much quicker. The Pension Fund is looking into the possibility of putting information on our website that allows you to calculate your withdrawal liability.

2. **What formula is used to calculate withdrawal liability and what are the various factors used in the calculation?**
   Your pro rata share of the contributions coming into the fund. We take your five-year contributions paid into, versus all contributions paid into the fund, and compare this to the total withdrawal liability.

3. **If withdrawal liability is assessed, how is it paid? All at once? In a series of payments?**
   You can pay it right away with no interest or you can take up to 20 years to pay it off, with a 7.5 percent interest rate.

4. **Is there a cap on the amount of withdrawal liability that can be assessed, such as a percentage of the company's net worth?**
   Only in the event of insolvency or a sale of the company, bona fide sale of assets (calculated cap).

5. **If an employer stops contributing to the IUPAT National Pension Fund, will withdrawal liability always be imposed?**

   It depends on the circumstance. When you stop contributing into the pension fund, and you remain in same geographic area, and perform the same type of work but do not continue to contribute to the fund, this equals withdrawal liability. Furthermore, if you retire and close your business that is not considered a withdrawal. If your workforce drops 70 percent or more there could possibly be a partial withdrawal. This is a result of an analysis done over a several year period. Keep in mind that there is still partial withdrawal during a downturn in the economy.

6. **Is it possible for a contributing employer to monitor the investments, investment policy and portfolio of the IUPAT National Pension Fund?**

   You get a copy of the 5500 form, which is also available online, that includes the audited report. In the Pension Fund Annual Funding Notice, there is a breakdown of how the assets are diversified among the fund. You can ask for any quarterly or annual report that the trustees receive from our analysts. You cannot, however, receive a copy of the investment policy.

   Withdrawal liability for small contractors, where the liability is less than $50,000, you are not obligated to pay this. This is a result of there always being a $50,000 reduction to each withdrawal liability amount.

7. **What are you doing to collect contributions from employers that make their contributions to the fund?**

   We go after the contractors. We do not settle any cases unless they pay 100 percent of the amount due, plus interest, plus attorney fees. We do, however, offer employers payment schedules, with a promissory note. We constantly complete compliance audits.

8. **Is there a watch list for the continued offender?**

   No, not technically.

Gary Meyers mentioned that if you do not have the money for a payment, let the Pension Fund office know and we'll work with you.

9. **When a contractor asks for a calculation of withdrawal liability, is there a certain amount of time to protest it?**

   While you may dispute a calculation on an interim basis, as long as that liability is not attached, your withdrawal liability does not go into effect.

10. **What portions of the fund reports are audited?**

    The Pension Fund office estimates that more than half of the fund reports are audited. The Pension Fund office completes audits by aligning with local trust funds. The Pension Fund office will receive a complaint either from an employer or from an IUPAT member that then results in an audit. If we go to a certain area to do an audit, we will randomly pick 2-3 other employers in the area so that the auditor is not going to an area for only one audit.

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The Pension Fund office is getting ready to do an experience study on all of the actuarial assumptions to see if we are correct in retirement, benefits, etc.

Hardship draws on the annuity resulting in the expansion of the annuity fund.

11. **Are defined benefit plans sustainable in the future?**
    We have DBs; we are stuck with them. Under the PPA we cannot change from DB to DC. Gary Meyers stated that this fund *is* sustainable.

The trustees' free-look rule: any new employer has a five-year free look. A contractor can come in and start making contributions to the fund, and then if he leaves within five years, withdrawal liability does not affect him.

Funding level changes, (i.e. green to orange) is based on legislation.

12. **Since uncollected funds increase a contractor's unfunded liability, is there a bonding requirement in the trust documents and if not, why?**
    No.

13. **What was the purpose of the 2006 Pension Protection Plan?**
    The 2006 PPA dictates that trustees have to use certain amount of assumptions based on what the actuaries' report. It laid out the groundwork for all pension funds to use the proper calculations when managing the fund. It made the pension funds be accountable. This is the first major legislation since ERISA was passed over 40 years ago.

    The PPA did some good things, such as increasing the transparency of plans. In the past, actuaries could defend their assumptions in the pension plan if there were reasonable in the aggregate. Actuaries must defend every assumption on its own merit. Under the funding improvement plan, congress made its assessment based on consultation as to how long it would reasonably take to get those plans out of trouble and what kind of burden employers could realistically withstand.

Actual rate of ROI is 7.5 percent. The Pension Fund office assumed that in 2009 we would return zero-percent in 2009, but in reality we returned 9-percent in 2009.

14. **If/when we get back to the green zone, is it up to the trustees to decide what to do with the 35 percent? Does it automatically go back in the CBA?**
    The zone status is reported on an annual basis. What occurs to the 35 percent is dependant upon the actions of the trustees, and also, the collective bargaining process.

The plan is not partitioned. You would use an original base rate, as of Jan 1, 2006, so whatever contribution you were paying at that time is calculated at half of 1 percent being contributed to your pension. You get a 1 percent accrual on the amount you paid between January 1, 2006 – March 6, 2008. The base date for the 35 percent is March 1, 2009. Of the additional 35 percent that is required, you get a 2 percent accrual on that up until Jan. 2, 2010. Then original rate is half.

Withdrawal liability is calculated on an annual basis. It is a rolling calculation, where the percentage is calculated over the last five years.

While the PPA is intended to improve the funding levels, it is not synonymous with reducing the withdrawal liability. Early money going in will help the funding level quickly, but the short term effect of that is that the contractors will have an accentuated withdrawal liability.

If the withdrawal liability is reflected on a contractor's balance sheet as proposed by FASB, it will affect his ability to get work.

Actuaries look at the ROI over a few year time period to calculate

15. **What is your impression of how your actuarial assets stood in June 2008 versus right now?**
    Market value of assets was 18 percent less than what the actuarial assets were.

16. **Does the actuarial employer smoothing determine the actuarial value of assets?**
    Five-year smoothing – Once your market value of assets reaches a certain level of your actuarial value of assets, you can reset. The figure is estimated to be in the 50s.

    There are different methods of valuing things and this could make it appear that things are inconsistent, when in fact, they are not

    Actuarial value of assets versus actuarial value of liability assets uses five-year smoothing. We take a five year period to gain an additional investment we gained on top of the 7.5 percent.

17. **How much do we owe everybody versus the market value of assets?**
    The dollar value of the unfunded vested benefits. Preliminary $4.2 billion total liability for accrued liability.

    $3 billion actual value of assets actual value is 2.5 billion
    $1.2 billion = withdrawal liability pool.

18. **Explain "Special Early".**
    The Pension Fund/IUPAT is not going to lower the retirement age. Age of retirement is 65 years old. 3 percent reduction of benefit level for every year before age 65 that you retire. As of December 31, 2008, assets versus liability we were at 69 percent liability versus 71 percent end of 2007, compared to at end of 2008, 2009 73.2 percent more the age of 65 that you retire.

    If you reach 60,000 hours that were contributed to the fund, you can retire unreduced.
    Age 55, with 54,000 hours, there is no reduction for early retirement.

    If you reach age 62, and have 45,000 hours or more paid into the pension fund your benefits are not reduced.

19. **Do we have to include this on our financial statements?**

    You can to disclose that you contribute to a fund and what the contribution, but you do not have to disclose the actual withdrawal liability. If the FASB rule goes forward, this is no longer applicable, resulting in withdrawal liability being incorporated into financial statements, or even just a footnote indicating this on the financial statement.