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APPEARANCES

BOARD MEMBERS:

DANIEL FORTUNA, President and
Annuitant Trustee

ROBERT TEBBENS, Active Trustee

WILLIAM MURPHY, Secretary and Active Trustee

TIMOTHY McPHILLIPS, Active Trustee

MELISSA CONYEARS-ERVIN, City Treasurer

ANNA VALENCIA, City Clerk

RESHMA SONI, City Comptroller

ANNETTE NANCE-HOLT, Active Trustee

ATTORNEYS FOR THE BOARD:

BURKE, BURNS AND PINELLI, LTD.

BY: MS. MARY PATRICIA BURNS

MR. VINCENT PINELLI

MS. SARAH A. BOECKMAN

ALSO PRESENT:

LORI LUND, Deputy Director

LORNA SCOTT, Chief Investment Officer

JACLYN VLAHOS, Comptroller

MARC TORRES, IT Analyst

MARK MYSLINSKI, City Treasurer's Office

DANIEL G. SAMO, M.D., Board Physician

1 CHAIRMAN FORTUNA: I hereby convene this
2 Board of Trustees meeting for Wednesday, February
3 17th, at 8:30. We are going to call the meeting to
4 order.

5 I would turn it over to Mary Pat for a
6 roll call

7 MS. BURNS: Thank you, President Fortuna.
8 Trustee Murphy.

9 MEMBER MURPHY: Here.

10 MS. BURNS: Trustee Nance-Holt.

11 MEMBER NANCE-HOLT: Present.

12 MS. BURNS: Trustee Conyears-Ervin. (Not
13 present.)

14 Trustee Soni.

15 MEMBER SONI: Here.

16 MS. BURNS: Trustee McPhillips.

17 MEMBER MCPHILLIPS: Here.

18 MS. BURNS: Trustee Tebbens.

19 MEMBER TEBBENS: Here.

20 MS. BURNS: Trustee Valencia.

21 MEMBER VALENCIA: Here.

22 CHAIRMAN FORTUNA: And I am here.

23 MS. BURNS: Sir, you have a quorum.

24 CHAIRMAN FORTUNA: Thank you. Public Act

1 101-0640 allows this meeting to be conducted by
2 audio and video conference. The Act requires a
3 roll call vote on each matter acted upon.

4 Further consistent with Public Act
5 101-0640, for the record, I am physically present
6 at the Fund's office, as is the Fund Secretary and
7 the Interim Executive Director. We are proceeding
8 by video conference because we continue to believe
9 the due to the pandemic it is prudent to not be
10 physically present in the same space. We have
11 posted notice of this meeting in accordance with
12 the Open Meetings Act and the meeting is being
13 recorded. A transcript of the proceedings will be
14 prepared and ultimately, after approval, will be
15 made available on the Fund's website.

16 So moving on to Public Comment.
17 Consistent with Public Act 91-0715 and reasonable
18 constraints determined by the Board of Trustees, at
19 each regular meeting of the Board or its committees
20 that is open to the public, members of the public
21 may request a brief time to address the Board on
22 relevant matters within its jurisdiction.

23 Are there any questions for public
24 comment this morning?

1 Okay hearing none, we are going to move
2 on. I am going to turn this over to Secretary
3 Murphy to proceed through the rest of the agenda.
4 Go ahead.

5 MEMBER MURPHY: Thank you, Mr. President.
6 First, I am going to turn to the Approval of the
7 Administrative Items.

8 Item number A, Approval of the Minutes of
9 the Regular Audio Meeting of January 20, 2021, the
10 open and closed minutes, and the Regular Audio
11 Meeting transcript of January 20, 2021.

12 I would like to make a motion to approve
13 the open minutes, the audio transcript, and the
14 closed session minutes from the January 20, 2021
15 meeting and keep the closed session minutes closed
16 on the recommendation of Fund counsel.

17 MEMBER TEBBENS: Second.

18 CHAIRMAN FORTUNA: There is a motion by
19 Trustee Murphy. Seconded by Trustee Tebbens.

20 Trustee Murphy.

21 MEMBER MURPHY: Yes.

22 CHAIRMAN FORTUNA: Trustee Holt.

23 MEMBER NANCE-HOLT: Yes.

24 CHAIRMAN FORTUNA: Trustee Soni.

1 MEMBER SONI: Yes.

2 CHAIRMAN FORTUNA: Trustee McPhillips.

3 MEMBER MCPHILLIPS: Yes.

4 CHAIRMAN FORTUNA: Trustee Tebbens.

5 MEMBER TEBBENS: Yes.

6 CHAIRMAN FORTUNA: Trustee Valencia.

7 MEMBER VALENCIA: Yes.

8 CHAIRMAN FORTUNA: And I am a yes.

9 Motion carries.

10 MEMBER CONYEARS-ERVIN: Good morning.

11 Treasurer Conyears-Ervin here.

12 CHAIRMAN FORTUNA: Thank you. Would you
13 like to vote on that motion?

14 MEMBER CONYEARS-ERVIN: I would, yes.

15 CHAIRMAN FORTUNA: Then you are a yes.

16 MEMBER MURPHY: Moving on, Mr. President,
17 to Item B. I make a motion to approve the Minimum
18 Formula Annuities starting with Member 15810 Meske
19 and ending with Member 14273 Trujillo.

20 MEMBER SONI: Second.

21 CHAIRMAN FORTUNA: Motion by Trustee
22 Murphy. Seconded by Trustee Soni.

23 Trustee Murphy.

24 MEMBER MURPHY: Yes.

1 CHAIRMAN FORTUNA: Trustee Holt.

2 MEMBER NANCE-HOLT: Yes.

3 CHAIRMAN FORTUNA: Trustee

4 Conyears-Ervin.

5 MEMBER CONYEARS-ERVIN: Yes.

6 CHAIRMAN FORTUNA: Trustee Soni.

7 MEMBER SONI: Yes.

8 CHAIRMAN FORTUNA: Trustee McPhillips.

9 MEMBER MCPHILLIPS: Yes.

10 CHAIRMAN FORTUNA: Trustee Tebbens.

11 MEMBER TEBBENS: Yes.

12 CHAIRMAN FORTUNA: Trustee Valencia.

13 MEMBER VALENCIA: Yes.

14 CHAIRMAN FORTUNA: And I am a yes.

15 Motion carries.

16 MEMBER MURPHY: Moving on to C, Survivor

17 Annuities: Widow's and Children's Annuities. I

18 would like to make a motion to approve the Widow's

19 and Children's Annuities starting with Member 07760

20 Churchill through Member 15965 Truevillian.

21 MEMBER CONYEARS-ERVIN: Second.

22 CHAIRMAN FORTUNA: There is a motion by

23 Trustee Murphy. Seconded by Trustee

24 Conyears-Ervin.

1 Trustee Murphy.

2 MEMBER MURPHY: Yes.

3 CHAIRMAN FORTUNA: Trustee Holt.

4 MEMBER NANCE-HOLT: Yes.

5 CHAIRMAN FORTUNA: Trustee

6 Conyears-Ervin.

7 MEMBER CONYEARS-ERVIN: Yes.

8 CHAIRMAN FORTUNA: Trustee Soni.

9 MEMBER SONI: Yes.

10 CHAIRMAN FORTUNA: Trustee McPhillips.

11 MEMBER MCPHILLIPS: Yes.

12 CHAIRMAN FORTUNA: Trustee Tebbens.

13 MEMBER TEBBENS: Yes.

14 CHAIRMAN FORTUNA: Trustee Valencia.

15 MEMBER VALENCIA: Yes.

16 CHAIRMAN FORTUNA: And I am a yes.

17 Motion carries.

18 MEMBER MURPHY: Moving to Item D,

19 Refunds. There are no refunds this month.

20 Moving on to Item E, Death Benefits. I

21 would like to move to approve the Death Benefits

22 for Member 08598 Barone through Member 09683

23 Zajdzinski.

24 MEMBER MCPHILLIPS: Second.

1 CHAIRMAN FORTUNA: There is a motion by
2 Trustee Murphy. Seconded by Trustee McPhillips.
3 Trustee Murphy.
4 MEMBER MURPHY: Yes.
5 CHAIRMAN FORTUNA: Trustee Holt.
6 MEMBER NANCE-HOLT: Yes.
7 CHAIRMAN FORTUNA: Trustee
8 Conyears-Ervin.
9 MEMBER CONYEARS-ERVIN: Yes.
10 CHAIRMAN FORTUNA: Trustee Soni.
11 MEMBER SONI: Yes.
12 CHAIRMAN FORTUNA: Trustee McPhillips.
13 MEMBER MCPHILLIPS: Yes.
14 CHAIRMAN FORTUNA: Trustee Tebbens.
15 MEMBER TEBBENS: Yes.
16 CHAIRMAN FORTUNA: Trustee Valencia.
17 MEMBER VALENCIA: Yes.
18 CHAIRMAN FORTUNA: And I am a yes.
19 Motion carries.
20 MEMBER MURPHY: Moving on to Item F,
21 Partial Payments. I would like to make a motion to
22 approve the Partial Payments beginning with Member
23 08598 Barone and continuing through to Member 09683
24 Zajdzinski.

1 MEMBER NANCE-HOLT: Second.

2 CHAIRMAN FORTUNA: Motion by Trustee
3 Murphy. Seconded by Trustee Holt.
4 Trustee Murphy.

5 MEMBER MURPHY: Yes.

6 CHAIRMAN FORTUNA: Trustee Holt.

7 MEMBER NANCE-HOLT: Yes.

8 CHAIRMAN FORTUNA: Trustee
9 Conyears-Ervin.

10 MEMBER CONYEARS-ERVIN: Yes.

11 CHAIRMAN FORTUNA: Trustee Soni.

12 MEMBER SONI: Yes.

13 CHAIRMAN FORTUNA: Trustee McPhillips.

14 MEMBER MCPHILLIPS: Yes.

15 CHAIRMAN FORTUNA: Trustee Tebbens.

16 MEMBER TEBBENS: Yes.

17 CHAIRMAN FORTUNA: Trustee Valencia.

18 MEMBER VALENCIA: Yes.

19 CHAIRMAN FORTUNA: And I am a yes.
20 Motion carries.

21 MEMBER MURPHY: Moving on to Item G,
22 Benefit Recalculations. Mr. President, there was
23 one Benefit Recalculation to reflect an adjustment
24 in an annuity amount approved on January 20, 2021

1 for Member 14342 to include the correct duty
2 availability payment. I'd like to make a motion to
3 approve.

4 MEMBER VALENCIA: Second.

5 CHAIRMAN FORTUNA: Motion to approve by
6 Trustee Murphy. Seconded by Trustee Valencia.

7 Trustee Murphy.

8 MEMBER MURPHY: Yes.

9 CHAIRMAN FORTUNA: Trustee Holt.

10 MEMBER NANCE-HOLT: Yes.

11 CHAIRMAN FORTUNA: Trustee

12 Conyears-Ervin.

13 MEMBER CONYEARS-ERVIN: Yes.

14 CHAIRMAN FORTUNA: Trustee Soni.

15 MEMBER SONI: Yes.

16 CHAIRMAN FORTUNA: Trustee McPhillips.

17 MEMBER MCPHILLIPS: Yes.

18 CHAIRMAN FORTUNA: Trustee Tebbens.

19 MEMBER TEBBENS: Yes.

20 CHAIRMAN FORTUNA: Trustee Valencia.

21 MEMBER VALENCIA: Yes.

22 CHAIRMAN FORTUNA: And I am a yes.

23 Motion carries.

24 MEMBER MURPHY: Mr. President, there is

1 also included in the materials two addendums
2 setting forth the Benefit Recalculations regarding
3 Public Act 99-0506 for Minimum Formula Widow's and
4 Retiree's, due to an update in the Federal
5 Register.

6 I'd like to make a motion to approve the
7 new calculated annuity amounts, based on the
8 addendums prepared by staff.

9 MEMBER VALENCIA: Second.

10 MEMBER MURPHY: Motion to approve by
11 Trustee Murphy. Seconded by Trustee Valencia.

12 Trustee Murphy.

13 MEMBER MURPHY: Yes.

14 CHAIRMAN FORTUNA: Trustee Holt.

15 MEMBER NANCE-HOLT: Yes.

16 CHAIRMAN FORTUNA: Trustee

17 Conyears-Ervin.

18 MEMBER CONYEARS-ERVIN: Yes.

19 CHAIRMAN FORTUNA: Trustee Soni.

20 MEMBER SONI: Yes.

21 CHAIRMAN FORTUNA: Trustee McPhillips.

22 MEMBER MCPHILLIPS: Yes.

23 CHAIRMAN FORTUNA: Trustee Tebbens.

24 MEMBER TEBBENS: Yes.

1 CHAIRMAN FORTUNA: Trustee Valencia.

2 MEMBER VALENCIA: Yes.

3 CHAIRMAN FORTUNA: And I am a yes.

4 Motion carries.

5 MEMBER MURPHY: Moving on to Item H,
6 Requests for Permission. Guardianship. There are
7 four guardianship matters for Members 06821, 07973,
8 11061 and 07936. Staff confirmed that the
9 appropriate documentation is on file for each of
10 these matters.

11 I would like to make a motion to approve
12 the guardianship in these four matters.

13 MEMBER TEBBENS: Second.

14 MS. BURNS: May I add something on one of
15 these? With respect to Member 11061, Lori provided
16 me with the documentation. I just want the record
17 to reflect that with respect to this member what
18 the court order did was it granted temporary
19 guardianship so I just want the record to reflect
20 that the Board is approving this particular
21 guardianship, unlike our normal ones, on a
22 temporary basis and that staff should report back
23 to the Board maybe in six months as to whether or
24 not this order becomes final or not. Thank you.

1 CHAIRMAN FORTUNA: Okay. So there is a
2 motion by Trustee Murphy. Seconded by Trustee
3 Tebbens.

4 Trustee Murphy.

5 MEMBER MURPHY: Yes.

6 CHAIRMAN FORTUNA: Trustee Holt.

7 MEMBER NANCE-HOLT: Yes.

8 CHAIRMAN FORTUNA: Trustee
9 Conyears-Ervin.

10 MEMBER CONYEARS-ERVIN: Yes.

11 CHAIRMAN FORTUNA: Trustee Soni.

12 MEMBER SONI: Yes.

13 CHAIRMAN FORTUNA: Trustee McPhillips.

14 MEMBER MCPHILLIPS: Yes.

15 CHAIRMAN FORTUNA: Trustee Tebbens.

16 MEMBER TEBBENS: Yes.

17 CHAIRMAN FORTUNA: Trustee Valencia.

18 MEMBER VALENCIA: Yes.

19 CHAIRMAN FORTUNA: And I am a yes.

20 Motion carries.

21 MEMBER MURPHY: Moving on to Item I,
22 Removals. I move to approve the Removals starting
23 with Dorothy Ormond and ending with Jayden
24 Rogers.

1 MEMBER SONI: Second.

2 CHAIRMAN FORTUNA: Motion for Removals by
3 Trustee Murphy. Seconded by Trustee Soni.

4 Trustee Murphy.

5 MEMBER MURPHY: Yes.

6 CHAIRMAN FORTUNA: Trustee Holt.

7 MEMBER NANCE-HOLT: Yes.

8 CHAIRMAN FORTUNA: Trustee
9 Conyears-Ervin.

10 MEMBER CONYEARS-ERVIN: Yes.

11 CHAIRMAN FORTUNA: Trustee Soni.

12 MEMBER SONI: Yes.

13 CHAIRMAN FORTUNA: Trustee McPhillips.

14 MEMBER MCPHILLIPS: Yes.

15 CHAIRMAN FORTUNA: Trustee Tebbens.

16 MEMBER TEBBENS: Yes.

17 CHAIRMAN FORTUNA: Trustee Valencia.

18 MEMBER VALENCIA: Yes.

19 CHAIRMAN FORTUNA: And I am a yes.

20 Motion carries.

21 MEMBER MURPHY: Mr. President, moving on
22 to Item 3, Request for Approval of Payments
23 Pursuant to Administrative and Court Orders.

24 I move that the administrative and court

1 order listed in the docket for Member 03432 be
2 approved

3 MEMBER CONYEARS-ERVIN: Second.

4 CHAIRMAN FORTUNA: Motion to approve by
5 Trustee Murphy. Seconded by Trustee
6 Conyears-Ervin.

7 Trustee Murphy.

8 MEMBER MURPHY: Yes.

9 CHAIRMAN FORTUNA: Trustee Holt.

10 MEMBER NANCE-HOLT: Yes.

11 CHAIRMAN FORTUNA: Trustee

12 Conyears-Ervin.

13 MEMBER CONYEARS-ERVIN: Yes.

14 CHAIRMAN FORTUNA: Trustee Soni.

15 MEMBER SONI: Yes.

16 CHAIRMAN FORTUNA: Trustee McPhillips.

17 MEMBER MCPHILLIPS: Yes.

18 CHAIRMAN FORTUNA: Trustee Tebbens.

19 MEMBER TEBBENS: Yes.

20 CHAIRMAN FORTUNA: Trustee Valencia.

21 MEMBER VALENCIA: Yes.

22 CHAIRMAN FORTUNA: And I am a yes.

23 Motion carries.

24 MEMBER MURPHY: Mr. President, moving on

1 to consideration for approval of the following
2 matters of the Duty Disability applications. We
3 have three today.

4 I believe the first one would be Darek
5 Martin, EMT.

6 MR. PINELLI: I am present and ready to
7 proceed. Mr. Martin has attorney Jerome Marconi
8 representing him. I see Mr. Marconi is on the
9 line.

10 MR. MARCONI: Can you hear me? I had a
11 problem last month.

12 MR. PINELLI: Yes, we can hear you.

13 MR. MARCONI: Great.

14 MR. PINELLI: Are you ready to proceed?

15 MR. MARCONI: Yes, sir.

16 MR. PINELLI: This is the application for
17 a Duty Disability benefit being made by Darek J.
18 Martin. Mr. Martin is represented by counsel
19 Jerome Marconi. Sir, could you please identify
20 yourself for the record?

21 MR. MARCONI: Yes. Jerry Marconi for the
22 record on behalf of the applicant.

23 MR. PINELLI: Is the applicant Mr. Martin
24 also on the line?

1 MR. MARTIN: Yes, I am. This is Darek
2 Martin.

3 MR. PINELLI: Very well, then we are
4 ready to proceed after some preliminary matters.

5 First of all, counsel, you should have
6 received copies of the board exhibits that have
7 previously been marked as Exhibits 1 through 9 for
8 purposes of the hearing. Did you receive a copy of
9 those?

10 MR. MARCONI: Yes, for the record, I did
11 receive those from Lori.

12 MR. PINELLI: Do you have any objection
13 to their admission into the record in this matter?

14 MR. MARCONI: I do not.

15 MR. PINELLI: Mr. Chairman, I move for
16 admission of Board Exhibits 1 through 9 without
17 objection from the applicant.

18 CHAIRMAN FORTUNA: Admitted without
19 objection.

20 (Board Exhibits 1 through 9 were
21 admitted into evidence.

22 MR. PINELLI: Thank you. Then I think we
23 are ready to proceed subject to the swearing of
24 witnesses.

1 Counsel, I presume you are going to call
2 Mr. Martin?

3 MR. MARCONI: That's correct.

4 MR. PINELLI: Then I would ask Dr. Samo,
5 the Fund's Physician/Consultant, and Mr. Martin,
6 could you both raise your right hands?

7 (Witnesses sworn.)

8 MR. PINELLI: Then I think we are ready
9 to proceed. Counsel, do you wish to call any
10 witnesses?

11 MR. MARCONI: Yes, Darek Martin.

12 DAREK J. MARTIN

13 a witness herein, having been first duly sworn, was
14 examined and testified as follows:

15 EXAMINATION

16 BY MR. MARCONI:

17 Q Darek, if you could just state your name
18 and spell your name so we have it for the record.

19 A Darek John Martin. D-a-r-e-k J-o-h-n
20 M-a-r-t-i-n.

21 Q Okay. You are currently employed by the
22 Chicago Fire Department; is that correct?

23 A Yes, I am on a duty disability.

24 Q You're the applicant; is that correct?

1 You submitted your affidavit and application for
2 disability benefits?

3 A Yes, I did, yes.

4 Q When were you hired by the Chicago Fire
5 Department?

6 A My start date was August 17th of 2009.

7 Q You filed your application on October 7,
8 2020; is that correct?

9 A Yes.

10 Q When was your last day of work?

11 A My last day of work was the day I was
12 injured, that was August 8th of 2019.

13 Q Okay. I know you submitted an affidavit
14 but I am going to ask you a couple questions about
15 how you were injured. Where was your assignment on
16 August 8th of 2019?

17 A My assignment was to detach services but
18 my working -- my role was as the coordinator of
19 hazardous materials training at the Quinn Fire
20 Academy.

21 Q Were you engaging in training on this
22 particular day?

23 A Yes, I was.

24 Q What was the nature of the training?

1 A We were completing the practical exercise
2 for that weeks hazardous material operation course
3 that is provided to all candidates or all candidate
4 Firefighter EMTs.

5 Q What did that training consist of?

6 A That is five days of both in class and
7 practical exercises. On the day in question, we
8 were running the candidates through a suit
9 familiarization drill so we get all the candidates
10 in the class into a Level A suit to give them a
11 feeling of what it is like to work in those suits
12 because once they are out as hazmat operations
13 training personnel they need to be able to function
14 in a decontamination capability.

15 Q Okay. Now was that training wrapping up
16 that day around 1:30 in the afternoon?

17 A Yes, we were cleaning up from the days
18 work. So there is a morning session and then an
19 afternoon.

20 Q Your affidavit indicates that you were,
21 maybe not you but some of the other trainees were,
22 handling a 55-gallon drum; is that correct?

23 A Yes. I was helping them get the drum
24 into the back of the ambulance. The ambulance in

1 question is an out of service standard Chicago ALS
2 ambulance.

3 Unfortunately, with the ambulance in
4 question or our Haz Mat training ambulance, the
5 airbags in the back of the ambulance didn't work so
6 it was stuck in the drive position. Typically
7 those would drop allowing for easier ingress and
8 egress.

9 So given the weight of that 55-gallon
10 drum, so it is a steel drum, we would load that
11 with a number of miscellaneous pieces of equipment.
12 It could weigh anywhere from 300 to 350 plus
13 pounds.

14 Given the limited space in the back of an
15 ambulance for all of the equipment necessary, it
16 was, to use a game terminology, it was kind of like
17 doing Tech Tetris.

18 I was helping the candidate get that drum
19 into the back of the ambulance in a way that would
20 allow us to load the ambulance appropriately.

21 Q How was that being loaded into the rear
22 of the ambulance?

23 A So I was inside the cab, along with
24 another candidate, and there were two candidates

1 below us.

2 Q Any issues while loading the drum?

3 A Not until it slipped. So we got it to
4 the edge of the lip of the back of the ambulance
5 and in holding that you have to readjust because
6 there is a little -- there is a catch in the back
7 for the stretchers so we had to adjust the barrel
8 as such. As we were adjusting it, like I said, as
9 I outline in the affidavit, the barrel slipped
10 backwards, which was at that point in time when I
11 caught and arrested the fall but in doing so I
12 injured my shoulder.

13 Q When you say you injured your shoulder,
14 what happened initially? Did you feel any pain?
15 Did you hear anything?

16 A I both felt and heard -- I mean, heard I
17 guess is a relative term but there was a popping
18 and tearing sensation in my arm followed by
19 immediate -- I don't know if I -- it was a high
20 level of pain, nine or ten.

21 Q Did you report it?

22 A Yes.

23 Q To whom?

24 A The first person I spoke to after I

1 recovered myself and realized that I needed -- was
2 instructor Mike Hogan and Mike proceeded to tell me
3 that I needed to -- we needed to actually make a
4 report on this or he suggested that I do that. At
5 which point in time I talked to Commander Greg
6 Swanson, who was in charge of the candidate
7 operations at that point in time.

8 Q Did you receive immediate treatment?

9 A I did. The candidate -- one of the
10 candidates who was helping me was actually a
11 crossover paramedic so he helped me and an
12 ambulance was requested as well.

13 Q Were you transported to Rush Hospital via
14 ambulance?

15 A I was.

16 Q What kind of treatment did you receive in
17 the ER?

18 A It was basic ice, they splinted the
19 shoulder and I had an x-ray.

20 Q Were you released the same day?

21 A I was, yes.

22 Q Did you follow up with any other doctors?

23 A I followed up with the CFD Medical
24 Section who in turn got me into physical therapy as

1 well as they started the relationship that I had
2 with Dr. Shi at University of Chicago.

3 Q Where did you initially go to PT?

4 A The initial one was Sports and Ortho in
5 Bridgeport.

6 Q How many sessions approximately?

7 A 25.

8 Q Did that resolve the pain and limitation
9 with the shoulder?

10 A No, it did not.

11 Q Did you try any other conservative
12 treatment, other than the physical therapy?

13 A I had a cortisone shot in November of
14 2019.

15 Q Was that successful?

16 A No.

17 Q Why not?

18 A In addition to -- well, in addition to
19 not remedying the pain or helping with range of
20 motion, I am a Type I diabetic and it caused my
21 blood glucose levels to explode. I mean they were
22 constantly elevated following the procedure.

23 Q After that I am assuming you didn't have
24 any more cortisone injections; is that correct?

1 A That's correct.

2 Q How did you get to Dr. Lewis Shi?

3 A Dr. Shi was -- I don't want to say
4 prescribed but he was the doctor that I was
5 directed to by the Medical Section.

6 Q Did Dr. Shi eventually recommend surgery?

7 A Following the cortisone shot and the, you
8 know, minimal therapy that that provided, he did
9 suggest that or his recommendation was that in
10 order to get not only range of motion back but any
11 strength that might be capable in that shoulder
12 that I would need to have surgery, yes.

13 Q Was that a total shoulder replacement?

14 A Frontal shoulder replacement, yes.

15 Q I'm sorry, you kind of broke up.

16 A Sorry. They also had to reattach the
17 biceps tendon and mend the biceps itself.

18 Q In the records, there is some indication
19 that you had prior injuries to both shoulders; is
20 that correct?

21 A That is correct.

22 Q Were these older injuries?

23 A I had a high school football injury,
24 which was a minor separation or subluxation or

1 minor dislocation. I guess sublucation is what it
2 is called. I also -- my right shoulder -- so the
3 left shoulder is the one that I had the football
4 injury with. My right shoulder was also actually
5 fractured, dislocated, but that's not here or there
6 with respect to the case in point.

7 Q Despite this prior injury leading up
8 until August 8th, was your left shoulder
9 symptomatic for any pain or limitations?

10 A No. I mean, I would have minor pain
11 sometimes but on the morning in question I was able
12 to do 11 free weighing pull-ups.

13 Q How much do you weigh?

14 A I weigh 270 pounds.

15 Q So I am assuming, and we haven't met
16 personally, you are a pretty big guy?

17 A Yeah, I guess that is fair to say.

18 Q Were you working out on a regular basis
19 in order to get to 11 free hanging pull-ups?

20 A I worked out six days a week, yes.

21 Q So no problems leading up until this day,
22 correct?

23 A Nothing limiting.

24 Q After your surgery, I am assuming you

1 went back into physical therapy; is that correct?

2 A I undertook eight physical therapy, I
3 believe it was eight physical therapy, appointments
4 with Athletico and I did those until my insurance
5 -- the discontinuation of my insurance following
6 the separation on the 8th of January.

7 Q Have you been kind of in limbo for the
8 last month as far as the physical therapy?

9 A Limbo from the standpoint of not being
10 able to actually go to having the actual physical
11 therapist work on my shoulder. The one thing that
12 I did do though is in an effort to continue the
13 process, given the gap between actual -- between
14 when I was having actual physical therapy
15 appointments, I have gone and bought all of the
16 equipment necessary to continue to do that. I have
17 about a five-foot stick that I use for stretching.
18 The balls that I need to do for wall exercises as
19 well as a pulley system for raising my arm and
20 continuing with range of motion work.

21 Q Okay. Then once the insurance issue is
22 resolved are you going to go back into physical
23 therapy? I mean actually appear with a physical
24 therapist?

1 A Yes. The one thing that I have right now
2 is that while I have been working on my range of
3 motion my strength is still -- the left arm is
4 still very weak so I don't want to do anything -- I
5 have -- you know, as previously noted I worked out
6 my entire life but I don't want to do anything that
7 is going to potentially damage the shoulder so I am
8 going to seek that type of professional counsel
9 with respect to rehabbing it.

10 Q The reports that I read indicate you are
11 not at maximum medical improvement or MMI yet is
12 that your understanding?

13 A Yes, I guess that is -- from what I saw
14 in the report, that is what Dr. Samo had concluded.

15 Q Okay. Is it your intention then to
16 continue with the physical therapy to hopefully
17 rehab your left shoulder to get back to work?

18 A I spent ten years, if I may, I spent ten
19 years trying to become a Firefighter so my goal
20 right now is absolutely work on the rehabilitation
21 end to get to that point.

22 Q What current problems do you have right
23 now that prohibit you from doing the full duties of
24 a Firefighter?

1 A Well, I know that at this point one of
2 the requirements for returning to operational
3 status is I need to be able to lift 90 pounds. I
4 could probably do that with my right arm alone but
5 I can't do it with -- my left arm is not -- I have
6 trouble at this point in time doing a five pound
7 bag of groceries so with my left arm so it is --
8 there is still a great weakness in that shoulder,
9 in that joint and the arm in general.

10 Q That is what you are working on right now
11 hopefully building strength backup in the shoulder?

12 A At this point in time I am trying to keep
13 it from tightening up or getting back to where it
14 was postsurgery because I had no range of motion,
15 nothing there. At this point in time, as I
16 mentioned before, I am not doing anything strength-
17 wise. The only working out that I am doing at this
18 point is walking for cardiovascular exercise but I
19 am leery of doing anything that would cause the
20 shoulder to be further injured so it is strictly
21 the stretching exercises that I have been shown.

22 MR. MARCONI: I have no other questions.

23 CHAIRMAN FORTUNA: Trustees, any
24 questions?

1 MEMBER MCPHILLIPS: No questions.

2 MR. PINELLI: If I may, Mr. Chairman, I
3 have just a couple of questions.

4 EXAMINATION

5 BY MR. PINELLI:

6 Q Good morning, Mr. Martin. I am one of
7 the attorneys for the Fund. I just want to ask you
8 a couple of questions.

9 A Good morning.

10 Q Counsel, I am looking at Group Board
11 Exhibit Number 1D, which is the history of shoulder
12 injuries.

13 MR. MARCONI: What page, 1D?

14 MR. PINELLI: D as in David, yes.

15 MR. MARCONI: Okay.

16 MR. PINELLI: It is a summary.

17 BY MR. PINELLI:

18 Q Firefighter Martin, my question is with
19 respect to prior injuries to your left shoulder,
20 you mentioned the dislocation from high school. It
21 appears you also in 2005 had a surgery on that
22 shoulder to remove a cyst; is that correct?

23 A Yep. That is correct, yep.

24 Q That was obviously four years before you

1 came on the department, right?

2 A Yeah. That was -- so if I may, I had
3 what is known as a ganglion cyst that was in the
4 shoulder. And what my doctor -- what Dr. Freehill
5 had told me -- I was doing a lot of -- I was
6 actually preparing for the CFD test at that point
7 in time. My brother is a Lieutenant now with the
8 Chicago Police Department. So he was obviously
9 hearing information about when the process was
10 going. I had been undertaking a ridiculously -- I
11 suppose ridiculous might be a strong word but I was
12 doing -- I was working out at that point in time
13 seven days a week for two and a half hours a day
14 and that was typically a hour of cardio, coupled
15 with very high upper body, both leg and upper body
16 work.

17 What my doctor or what Dr. Freehill
18 explained to me at the time was that that was,
19 particularly the power lifting that I was doing
20 because I was using 110 pound dumbbells, he said
21 that was probably what led to that.

22 And normally a ganglion cyst if it
23 doesn't hit a nerve is not that big of a deal.
24 Unfortunately, in my case it was right on the nerve

1 that was running through the shoulder. Once they
2 took -- once the cyst was removed, it was night and
3 day.

4 Q It looks like it was an arthroscopic
5 procedure, too, right?

6 A Yeah, I mean it was outpatient.

7 Q Outpatient, okay. And then secondly it
8 looks like on October 14th of 2009 you also had an
9 injury to that shoulder again while you were a
10 candidate in the Academy?

11 A Mmm-hmm, yes.

12 Q All I want to know is that injury to the
13 shoulder did not require any surgical procedures?
14 You were able to rehabilitate it through
15 conservative measures and then go back to work,
16 right?

17 A Yeah. The issue in question -- yeah, the
18 shoulder slipped. We were required to put our bags
19 over our heads and I think that is outlined fairly
20 clearly but the -- I was transported to Rush. They
21 went through it. Again, I was told to ice, do
22 those things. But the one issue there was, as it
23 was explained to me, if I went and did physical
24 therapy or wanted surgery, I would have to get

1 rolled back to another class and as I mentioned
2 before I spent ten years trying to become a
3 Firefighter so it was more or less one of those
4 things where I sucked it up and went so -- and it
5 ended up not being an issue.

6 Q Because you were able to return to work
7 and you worked for ten years thereafter?

8 A Yes.

9 Q Without any problems, causing you not
10 being able to work because of your left shoulder,
11 right?

12 A Right.

13 Q Thank you. And then have you engaged in
14 any activities by which you earned income since you
15 have been on layup for this particular incident?

16 A I'm sorry, could you repeat the question?

17 Q Have you engaged in any activities by
18 which you earn money or income since you went on
19 layup for this incident?

20 A No.

21 MR. PINELLI: Thank you, that is all the
22 questions I have of the applicant.

23 Mr. Marconi, do you have any further
24 evidence before I call Dr. Samo to testify?

1 MR. MARCONI: No, sir.

2 MR. PINELLI: Then I'd like to proceed
3 with calling Doctor Samo. He has been sworn.

4 (Witness previously sworn.)

5 DANIEL SAMO, M.D.

6 a witness herein, having been first duly sworn, was
7 examined and testified as follows:

8 EXAMINATION

9 BY MR. PINELLI:

10 Q Sir, could you please state your name?

11 A Daniel Samo.

12 Q You're a physician; is that correct?

13 A Yes.

14 Q A copy of your qualifications as a
15 physician are attached to the Board Exhibits?

16 A Yes.

17 Q Do you perform a function as a consultant
18 to this fund?

19 A Yes.

20 Q In that capacity, do you review medical
21 records, examine or interview applicants and report
22 to the Board?

23 A Yes.

24 Q Did you follow that procedure and provide

1 a written report to the Board that is marked as
2 Board Exhibit Number 2?

3 A Yes.

4 Q Doctor Samo, could you just briefly
5 summarize for us the current condition of the
6 applicant?

7 A Currently, he just had surgery, a
8 shoulder replacement surgery, and so he's in
9 rehabilitation for that. So he has, as would be
10 expected, a significant loss of range of motion and
11 weakness in that shoulder.

12 Q Would that condition prevent him from
13 performing full and unrestricted duties with the
14 Department?

15 A Yes.

16 Q Doctor, just quickly, the incident he
17 described occurring in January of '20, based on
18 your knowledge and experience, does that sound like
19 a competent mechanism to have caused the injury he
20 sustained?

21 A In August of '19?

22 Q No, in January of '20. Excuse me, do I
23 have my wrong dates here?

24 MR. MARCONI: Are you talking about

1 August 8th, Vince?

2 MR. PINELLI: I'm sorry, my mistake.

3 THE WITNESS: So he clearly had
4 preexisting osteoarthritis in that shoulder but was
5 asymptomatic. All the records I reviewed, I didn't
6 see any complaints of the shoulder back to 2009
7 and then clearly something happened. It was an
8 acute injury, an acute pain, exactly what that was
9 I don't know. It wasn't clear from the scanning
10 but after that he remained significantly
11 symptomatic from that point on.

12 MR. PINELLI: Thank you, doctor, that is
13 all the questions I have.

14 Is there any another evidence you wish to
15 present at this time, counsel?

16 MR. MARCONI: No, sir.

17 MR. PINELLI: Trustees, are there any
18 questions for the doctor?

19 MEMBER MCPHILLIPS: No questions.

20 CHAIRMAN FORTUNA: Okay, thank you.

21 MEMBER MURPHY: Mr. President, I'd like
22 to make a motion to grant the benefits requested by
23 Darek Martin.

24 MEMBER VALENCIA: Second.

1 CHAIRMAN FORTUNA: There is a motion to
2 grant. There is a second by Trustee Valencia.

3 Trustee Murphy.

4 MEMBER MURPHY: Yes.

5 CHAIRMAN FORTUNA: Trustee Holt.

6 MEMBER NANCE-HOLT: Yes.

7 CHAIRMAN FORTUNA: Trustee

8 Conyears-Ervin.

9 MEMBER CONYEARS-ERVIN: Yes.

10 CHAIRMAN FORTUNA: Trustee Soni.

11 MEMBER SONI: Yes.

12 CHAIRMAN FORTUNA: Trustee McPhillips.

13 MEMBER MCPHILLIPS: Yes.

14 CHAIRMAN FORTUNA: Trustee Tebbens.

15 MEMBER TEBBENS: Yes.

16 CHAIRMAN FORTUNA: Trustee Valencia.

17 MEMBER VALENCIA: Yes.

18 CHAIRMAN FORTUNA: And I am a yes.

19 Motion carries.

20 MEMBER MURPHY: I would like to make a
21 motion for reexam consistent with the Board's
22 policies.

23 MEMBER TEBBENS: Second.

24 CHAIRMAN FORTUNA: Motion for reexam by

1 Trustee Murphy. Seconded by Trustee Tebbens.

2 Trustee Murphy.

3 MEMBER MURPHY: Yes.

4 CHAIRMAN FORTUNA: Trustee Holt.

5 MEMBER NANCE-HOLT: Yes.

6 CHAIRMAN FORTUNA: Trustee

7 Conyears-Ervin.

8 MEMBER CONYEARS-ERVIN: Yes.

9 CHAIRMAN FORTUNA: Trustee Soni.

10 MEMBER SONI: Yes.

11 CHAIRMAN FORTUNA: Trustee McPhillips.

12 MEMBER MCPHILLIPS: Yes.

13 CHAIRMAN FORTUNA: Trustee Tebbens.

14 MEMBER TEBBENS: Yes.

15 CHAIRMAN FORTUNA: Trustee Valencia.

16 MEMBER VALENCIA: Yes.

17 CHAIRMAN FORTUNA: And I am a yes.

18 Motion carries.

19 MEMBER MURPHY: Counsel has previously

20 sent around proposed findings of fact and

21 conclusion of law in this matter. Having had a

22 chance to review those, I make a motion to adopt

23 the findings of fact and conclusion of law in this

24 matter.

MEMBER SONI: Second.

1 CHAIRMAN FORTUNA: Motion to adopt by
2 Trustee Murphy. Seconded by Trustee Soni.

3 Trustee Murphy.

4 MEMBER MURPHY: Yes.

5 CHAIRMAN FORTUNA: Trustee Holt.

6 MEMBER NANCE-HOLT: Yes.

7 CHAIRMAN FORTUNA: Trustee
8 Conyears-Ervin.

9 MEMBER CONYEARS-ERVIN: Yes.

10 CHAIRMAN FORTUNA: Trustee Soni.

11 MEMBER SONI: Yes.

12 CHAIRMAN FORTUNA: Trustee McPhillips.

13 MEMBER MCPHILLIPS: Yes.

14 CHAIRMAN FORTUNA: Trustee Tebbens.

15 MEMBER TEBBENS: Yes.

16 CHAIRMAN FORTUNA: Trustee Valencia.

17 MEMBER VALENCIA: Yes.

18 CHAIRMAN FORTUNA: And I am a yes.

19 Motion carries.

20 Mr. Martin, based on the findings of fact
21 made by the Trustees, the Trustees have voted to
22 grant the benefit that you have requested. You
23 will be notified by mail of the findings of fact
24 and the Board's decision.

1 Thank you and good luck to you. Get back
2 to work, we need a guy of your size.

3 MR. MARTIN: Thank you.

4 MEMBER MURPHY: The next applicant is
5 Paramedic in Charge Joseph Pecoraro.

6 MR. PINELLI: Is Mr. Pecoraro on?

7 CHAIRMAN FORTUNA: He's on the line,
8 Vince.

9 MR. PINELLI: Okay. The trustees are
10 ready to proceed?

11 CHAIRMAN FORTUNA: Yes.

12 MR. PINELLI: Let the record reflect this
13 is a hearing on the application for a Duty
14 Disability benefit being made by Joseph Pecoraro.
15 Mr. Pecoraro, can you hear me?

16 MR. PECORARO: Yes, I can. Can you hear
17 me okay?

18 MR. PINELLI: Yes, now I can.

19 I'd like to advise you of some
20 preliminary matters before we start evidence.

21 First off, there are eight trustees
22 present at this time to hear the evidence on your
23 application. If you don't know you should know the
24 Pension Code requires you get the affirmative or

1 yes vote of at least five of those eight trustees
2 in order to receive this benefit. Do you
3 understand that?

4 MR. PECORARO: Yes, sir.

5 MR. PINELLI: I also understand that you
6 are proceeding without an attorney today. Is it
7 your desire to proceed with the hearing without
8 counsel?

9 MR. PECORARO: Yes, sir.

10 MR. PINELLI: Lastly, it is your burden
11 of proof as the applicant to present sufficient
12 evidence to the Board in order for the Board to
13 grant the benefit you are seeking. Do you
14 understand it is your burden of proof?

15 MR. PECORARO: Yes, sir.

16 MR. PINELLI: By way of procedures, I am
17 going to start by asking you some questions under
18 oath. The board members may or may not have
19 questions of you. Then I will call the Fund's
20 physician consultant to testify, who you
21 interviewed with. If there is anything I don't ask
22 him, please let me know and you will be given an
23 opportunity.

24 I also think we have a witness that has

1 been asked to be here today. If he is present, I
2 am going to ask him some questions, too. Once
3 again, if there is anything you think is important
4 for us to know that I don't ask him, please let me
5 know and you will be given that opportunity.

6 Do you understand the procedures?

7 MR. PECORARO: Yes, sir.

8 MR. PINELLI: Then we are ready to
9 proceed. Sir, would you please raise your right
10 hand? And, Dr. Samo, would you please raise your
11 right hand as well?

12 (Witnesses sworn.)

13 JOSEPH A. PECORARO

14 a witness herein, having been first duly sworn, was
15 examined and testified as follows:

16 EXAMINATION

17 BY MR. PINELLI:

18 Q Mr. Pecoraro, could you please state your
19 name and spell your last name for the record?

20 A Sure. It is Joseph Anthony Pecoraro,
21 P-e-c-o-r-a-r-o.

22 Q What is your current rank with the Fire
23 Department?

24 A Paramedic in Charge.

1 Q What was your last assignment before you
2 went on layup?

3 A Last assignment was Ambulance 32.

4 Q Now, sir, you should have received a
5 group of exhibits from the Fund staff prior to this
6 hearing several days in advance. Did you receive
7 Group Board Exhibits 1 through 12?

8 A Yes.

9 Q Did you have a chance to review them?

10 A Yes, I did.

11 Q Do you have any objection to their
12 admission into the record in support of your
13 application?

14 A No, sir.

15 MR. PINELLI: Mr. President, I would move
16 for admission of Board Exhibits 1 through 12,
17 without objection from the applicant.

18 CHAIRMAN FORTUNA: Admitted without
19 objection.

20 MR. PINELLI: Thank you.

21 (Board Exhibits 1 through 12 were
22 admitted into evidence.)

23 BY MR. PINELLI:

24 Q Now, sir, you are applying for this

1 disability benefit based upon an injury that you
2 sustained on January 5th of 2020; is that correct?

3 A Yes, sir.

4 Q Now understanding the Board has your
5 sworn statement in the Board Exhibits but could you
6 still just briefly summarize for us today where you
7 were and what caused you the injury?

8 A Sure. That particular day I was working
9 at Ambulance 56 and I think it was somewhere around
10 3:30 in the afternoon. We were moving a patient
11 from the stretcher to the bed at Swedish Hospital.

12 I felt a pull, some pain, in my back,
13 some muscle spasms. From what I remember, I think
14 I grabbed an ice pack. I let my partner know that
15 I hurt myself. I thought it might resolve.

16 Unfortunately, it became worse. So I started
17 experiencing worse muscle spasms, tightness in my
18 back, so a few hours later I realized that there
19 was no way I was going to be able to finish the
20 shift because I wouldn't be able to perform my
21 duties.

22 I informed my partner and he drove me to
23 St. Francis Hospital since that was the nearest
24 hospital and then they just went ahead with just a

1 routine ER visit. They didn't perform any x-rays.
2 To tell you the truth, I can't remember if they did
3 or not. I remember they gave me like Toradol,
4 Valium, to relax my back and kill the pain.

5 Q Returning to the incident for a quick
6 second, who if anyone else was assisting in the
7 transporting or the lifting of the patient as you
8 described it?

9 A No one that I remember, just my partner
10 and I.

11 Q What is your partner's name?

12 A The guy I was working with that day was
13 Mike Pankowski.

14 Q So can you just briefly describe where
15 you were in relation to the patient and what you
16 did when you felt this pain?

17 A I want to say I was at the head of the
18 patient. From what I remember the patient wasn't
19 very large. I just lifted up, twisted over to
20 place her on the bed and then I just felt like a
21 muscle pull and some immediate pain. Kind of like
22 a sharp pain. A little bit of spasming. After
23 that I just iced it. It kind of relaxed it
24 somewhat but became much more severe after that.

1 Q As to the patient, I think you described
2 it to CFD Medical as a small lady about 130 pounds;
3 is that correct?

4 A Yeah. From what I remember, she wasn't
5 very large. It was just the motion of twisting
6 over to the bed is when I felt the pain.

7 Q You weren't lifting the stretcher, you
8 were just lifting the patient, correct?

9 A Yes, sir.

10 Q Now had you ever injured your back, your
11 lower back, prior to that date?

12 A Yeah, I had some -- especially since, you
13 know, starting in January -- I'm sorry, July of
14 2019, I had some problems. They replaced -- 32 was
15 one of the newer ambulances and the rear steps is
16 very high. They no longer were using airbags. I
17 guess we had an issue with too many airbag problems
18 with the ambulance people so they don't raise or
19 lower but the step height is very high.

20 And I want to say on July 27th I stepped
21 off the back, felt problems. I stepped off the
22 back of the ambulance. Stepped out of the back of
23 the ambulance. I kind of felt problems in my back
24 and my knee after it twisted.

1 From there it was a tough summer because
2 I was on EMS 4 and EMS 2 is extremely low on a
3 manpower. But I had come back, any time I did come
4 back from injury, not only was I paying people back
5 that I owed time to but I was also being mandatory
6 on rehires and so I had quite a few recurring
7 injuries. I would do the physical therapy. When I
8 felt better I would come back right away but this
9 last time unfortunately it just never resolved.

10 Q Do you happen to have the Board Exhibits
11 with you by any chance?

12 A Yeah, I do here in my computer.

13 Q If you could look at -- just tell me when
14 you have them in front of you.

15 A Sure. Which page are you looking for?

16 Q I was just going to say Board Exhibit 4,
17 which they are marked in the lower right-hand
18 corner.

19 A Okay. Layup Summary?

20 Q Exactly. So that is a document that is
21 prepared by the staff from a summary of what they
22 found in the medical record from the Medical
23 Section of the Fire Department. It lays out a
24 chronological order of various layups you have had.

1 With respect to your lower back, after I
2 went through it, it looks like you have had various
3 back injuries going back to 2012 I think was the
4 earliest one I saw.

5 A Sure.

6 Q December 23rd of '12. And I guess my
7 question is simply that is it accurate that you
8 have had a number of layups for low back pain,
9 strains, things like that, going back to 2012?

10 A Yes, it is.

11 Q Okay. It also appears that on the Layup
12 Summary, you were able to have those symptoms
13 resolve through conservative treatment and return
14 to work after each one of them?

15 A Yes, sir.

16 Q You never had any surgical procedures to
17 address any of your low back problems that you had
18 prior to this incident, correct?

19 A Prior to this one, no.

20 Q Can you tell me, if you can, was there a
21 difference at all in the pain you experienced on
22 this particular incident that you described versus
23 all those prior duty injuries or was it basically
24 the same area of your back?

1 A It was pretty much the same area but I
2 did experience much more severe muscle spasms. I
3 did receive like -- I don't know if they call them
4 ultrasound assisted cortisone shots, which gave me
5 very temporary relief. But after physical therapy,
6 once they finally had performed diagnostics, they
7 found that I had a slight herniation at L-4/L-5 and
8 like I said the cortisone shots would give me
9 temporary relief but the stiffness from the spasms
10 just kept coming back.

11 Q Okay. And so in your course of
12 treatment, since this last injury, you consulted
13 with various doctors for your back; is that right?

14 A Yes, sir.

15 Q And none of the doctors have recommended
16 a surgical procedure for your back, correct?

17 A Doctor Fisher said I was kind of in a
18 gray area where right now he understands my
19 symptoms and the fact that I am unable to perform
20 those duties but he wouldn't recommend surgery at
21 this point.

22 Q Okay. Can you describe for the Board as
23 you sit here today what the condition of your back
24 is with respect to any limitations or pain and so

1 forth?

2 A You mean as far as the diagnosis or the
3 symptoms?

4 Q Symptoms.

5 A Okay. Just constant stiffness,
6 tightness. I am still experiencing a lot of the
7 spasms. I have to ice my back constantly. I am
8 limited to a lot of the things -- I like to walk.
9 I am a big walker. But, unfortunately, I used to
10 walk for miles, now that is very limited. I am
11 just very careful of the things that I do. I try
12 to be as ergonomic as possible. And that is the
13 problem with the functions of the job is people
14 aren't getting any smaller and carrying them down
15 four flights of stairs in a stair chair or trying
16 to twist my body to maneuver people from between
17 toilets and sinks and toilets and bathtubs it's
18 just not something I can perform anymore.

19 Q And you mentioned before you answered
20 this question, what is your understanding of the
21 diagnosis of the condition of your back?

22 A Just that I have a herniation down there,
23 with muscle spasms and you know back strain.

24 Q When you mentioned earlier that after the

1 incident you went back to the firehouse, you know,
2 tried to get through it, it was several hours and
3 then you said you reported it to your partner; is
4 that correct?

5 A Yeah. I want to say I explained it to
6 him originally but as the time went on the spasms
7 just became much worse and I let him know that I
8 was going to have to go to St. Francis. So we
9 contacted the Field Chief, who that day was John
10 Roberts, and he met us over there to fill out the
11 paperwork.

12 Q But did you report it to any superior
13 officer, you know, right after it happened and
14 prior to going to the hospital?

15 A No, I didn't.

16 Q Since you went on layup have you engaged
17 in any activity by which you earn income or money?

18 A No. I basically since I have been on
19 this department I have never worked a side job or
20 had any other source of income.

21 Q Have you engaged in any sporting
22 activities of any kind since you went on layup?

23 A No, no, it's been quite a few years for
24 those.

1 Q Are you currently taking any medications
2 prescribed by a physician for pain relief or --

3 A You know what, I'm sorry, no, just
4 Ibuprofen. Just over-the-counter, nothing
5 prescribed.

6 Q Lastly, do you have any appointments
7 scheduled with any physicians with respect to the
8 treatment of your back?

9 A Not as of late, no.

10 MR. PINELLI: Thank you, sir, that is all
11 the questions I have.

12 MR. PECORARO: Okay, thank you.

13 CHAIRMAN FORTUNA: Trustees, any
14 questions?

15 MEMBER MCPHILLIPS: No questions.

16 CHAIRMAN FORTUNA: Thank you.

17 MR. PINELLI: Then I would call Dr. Samo
18 to testify.

19 (Witness previously sworn.)

20 DANIEL SAMO, M.D.

21 a witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 EXAMINATION

24 BY MR. PINELLI:

1 Q Sir, please state your name.

2 A Daniel Samo.

3 Q You are a physician; is that correct?

4 A Yes.

5 Q Are a copy of your qualifications as a
6 physician attached to the Board Exhibits?

7 A Yes.

8 Q Are you a consultant to this fund?

9 A Yes.

10 Q In that capacity do you review medical
11 records, examine or interview applicants and report
12 to the Board?

13 A Yes.

14 Q Did you follow that procedure with
15 respect to Firefighter Pecoraro?

16 A Yes.

17 Q Paramedic in Charge, I'm sorry. Did you
18 file a written report with the Board?

19 A Yes.

20 Q Dr. Samo, a couple of questions. With
21 respect to his history, did you review the records
22 indicating that he had had a history of lower back
23 injuries going back to at least 2012?

24 A Yes, that was the earliest records that

1 we found and he did have recurrent low back pain,
2 yes, multiple times.

3 Q It looks like that the -- he had a MRI.
4 I believe it was for the first time on July 9th of
5 2020, that is Exhibit 7B.

6 A Correct.

7 Q So none of these prior injuries to his
8 back of which there are multiple injuries did he
9 ever have a MRI at least in the records; is that
10 correct?

11 A Correct.

12 Q Let's look at that 7B for a minute.
13 Specifically 7B.2, small 2. That is the result
14 report from that MRI; is that correct?

15 A Let me get there.

16 Q Okay.

17 A Yes.

18 Q Can you just briefly tell us what those
19 findings were?

20 A So he had some mild degenerative disease
21 at the L-4/5 and the L-5/S-1 so lower lumbar spine.
22 He had a left-sided herniation which gave some
23 minor narrowing of his spinal canal. Other than
24 that, there was nothing really interesting or

1 significant.

2 Q Okay. So if he had a disc that was
3 impinging on the nerve, would you have expected to
4 see pain radiating down his leg?

5 A Yeah. Well, it may be. I mean the
6 correlation between MRI findings and symptoms is
7 not great. Just because there's a disc -- well, in
8 this case his herniation is on the left, his
9 symptoms were on the right. It is probably just an
10 incidental finding.

11 Q Okay. But it is accurate, is it not,
12 that he has not complained at all since the
13 incident of any pain radiating down his leg,
14 correct?

15 A Correct. He had some complaints of some
16 radiation to his hip but nothing down into the leg
17 or certainly below the knee, which is what the
18 criteria would be for this to be a radiculopathy or
19 sciatica.

20 Q Is the fact that none of the doctors are
21 recommending a surgical intervention to address the
22 disc to the extent it is protruding would that be
23 indicative of the fact that they are not certain
24 that condition is causing him his pain?

1 A Right. I would -- I am guessing what
2 they are thinking but if it was my patient with
3 this MRI I would not think that that herniation on
4 the left has caused the back symptoms which mostly
5 radiate to the right and doing surgery for axial
6 back pain tends to be fairly poor results.

7 Q Okay. So this MRI shows an indication of
8 mild degenerative disc disease. Are you able to
9 say to a reasonable degree of medical certainty
10 whether or not the low back pain that he is
11 experiencing at the current time is a result of the
12 natural progression of degenerative disease in his
13 back or an acute injury that he suffered on January
14 5th?

15 A So that is a complex and controversial
16 question that you are asking. We don't really know
17 what causes people to have axial back pain and all
18 I can say is that he had recurrent back pain but it
19 would get better. This time he had this incident
20 which triggered his back pain and it did not get
21 better. Why that is and what is causing it exactly
22 I don't know and I don't think anybody really
23 knows.

24 Q Okay. With respect to his pain

1 complaints, assuming for the fact that they are
2 accurate and truthful, would he be able to perform
3 his duties with the Fire Department given the
4 condition of pain in his back?

5 A No, he would have difficulty with heavy
6 lifting, bending, twisting type activities.

7 Q Did you see any indication in the records
8 -- strike that. Was your interview of him
9 consistent with what you saw in the records?

10 A Yes.

11 Q Did you see any indication in the records
12 that he is either malingering or magnifying his
13 symptoms?

14 A No.

15 MR. PINELLI: Thank you, doctor, that is
16 all the questions I have.

17 CHAIRMAN FORTUNA: Trustees, any
18 questions for Dr. Samo? Okay, thank you.

19 MEMBER MURPHY: I'd like to make a motion
20 to grant the benefits requested by Mr. Pecoraro.

21 MEMBER VALENCIA: Second.

22 CHAIRMAN FORTUNA: There is a motion to
23 grant by Trustee Murphy. Seconded by Trustee
24 Valencia.

1 Trustee Murphy.

2 MEMBER MURPHY: Yes.

3 CHAIRMAN FORTUNA: Trustee Holt.

4 MEMBER NANCE-HOLT: Yes.

5 CHAIRMAN FORTUNA: Trustee

6 Conyears-Ervin.

7 MEMBER CONYEARS-ERVIN: Yes.

8 CHAIRMAN FORTUNA: Trustee Soni.

9 MEMBER SONI: Yes.

10 CHAIRMAN FORTUNA: Trustee McPhillips.

11 MEMBER MCPHILLIPS: Yes.

12 CHAIRMAN FORTUNA: Trustee Tebbens.

13 MEMBER TEBBENS: Yes.

14 CHAIRMAN FORTUNA: Trustee Valencia.

15 MEMBER VALENCIA: Yes.

16 CHAIRMAN FORTUNA: And I am a yes.

17 Motion carries.

18 MEMBER MURPHY: I would like to make a

19 motion for reexam consistent with the Board's

20 policy.

21 MEMBER TEBBENS: Second.

22 CHAIRMAN FORTUNA: Motion for reexam by

23 Trustee Murphy. Seconded by Trustee Tebbens.

24 Trustee Murphy.

1 MEMBER MURPHY: Yes.

2 CHAIRMAN FORTUNA: Trustee Holt.

3 MEMBER NANCE-HOLT: Yes.

4 CHAIRMAN FORTUNA: Trustee

5 Conyears-Ervin.

6 MEMBER CONYEARS-ERVIN: Yes.

7 CHAIRMAN FORTUNA: Trustee Soni.

8 MEMBER SONI: Yes.

9 CHAIRMAN FORTUNA: Trustee McPhillips.

10 MEMBER MCPHILLIPS: Yes.

11 CHAIRMAN FORTUNA: Trustee Tebbens.

12 MEMBER TEBBENS: Yes.

13 CHAIRMAN FORTUNA: Trustee Valencia.

14 MEMBER VALENCIA: Yes.

15 CHAIRMAN FORTUNA: And I am a yes.

16 Motion carries.

17 MEMBER MURPHY: Counsel has previously

18 sent around proposed findings of fact and

19 conclusions of law in this matter. Having had a

20 change to review those, I make a motion to adopt

21 the findings of fact and conclusions of law in this

22 matter.

23 MEMBER SONI: Second.

24 CHAIRMAN FORTUNA: Motion to adopt the

1 findings of fact by Trustee Murphy. Seconded by
2 Trustee Soni.

3 Trustee Murphy.

4 MEMBER MURPHY: Yes.

5 CHAIRMAN FORTUNA: Trustee Holt.

6 MEMBER NANCE-HOLT: Yes.

7 CHAIRMAN FORTUNA: Trustee

8 Conyears-Ervin.

9 MEMBER CONYEARS-ERVIN: Yes.

10 CHAIRMAN FORTUNA: Trustee Soni.

11 MEMBER SONI: Yes.

12 CHAIRMAN FORTUNA: Trustee McPhillips.

13 MEMBER MCPHILLIPS: Yes.

14 CHAIRMAN FORTUNA: Trustee Tebbens.

15 MEMBER TEBBENS: Yes.

16 CHAIRMAN FORTUNA: Trustee Valencia.

17 MEMBER VALENCIA: Yes.

18 CHAIRMAN FORTUNA: And I am a yes.

19 Motion carries.

20 Mr. Pecoraro, based on the findings of
21 fact made by the trustees, the trustees have voted
22 to grant the benefit that you have requested. You
23 will notified by mail and the findings of fact and
24 the Board's decision. Good luck to you.

1 MR. PECORARO: Thank you, very much.

2 MEMBER MURPHY: Moving on to Aparicio Rivera.

3 MS. BURNS: Vince, did you need a closed
4 session or did you want to go right into the
5 hearing?

6 MR. PINELLI: I thought it would be
7 helpful for us to have a discussion ahead of time
8 both on that and on the Widow's application for
9 Duty Death Benefits.

10 MS. BURNS: If that is the Trustees'
11 pleasure, maybe Trustee Murphy you could make a
12 motion to go into closed session pursuant to
13 Section 2(c)4 of the Open Meetings Act.

14 MEMBER SONI: Before we do that, this is
15 Trustee Soni, I have to leave. I apologize. I
16 just wanted to let the Board know.

17 MS. BURNS: Thank you, Trustee Soni.

18 CHAIRMAN FORTUNA: Okay, thank you.

19 Is there a motion to go into executive
20 session?

21 MEMBER MURPHY: I'd like to make that
22 motion, Mr. President.

23 MEMBER VASQUEZ: Second.

24 CHAIRMAN FORTUNA: There is a motion by

1 Trustee Murphy. Seconded by Trustee Valencia.

2 Trustee Murphy.

3 MEMBER MURPHY: Yes.

4 CHAIRMAN FORTUNA: Trustee Holt.

5 MEMBER NANCE-HOLT: Yes.

6 CHAIRMAN FORTUNA: Trustee

7 Conyears-Ervin.

8 MEMBER CONYEARS-ERVIN: Yes.

9 CHAIRMAN FORTUNA: Trustee McPhillips.

10 MEMBER MCPHILLIPS: Yes.

11 CHAIRMAN FORTUNA: Trustee Tebbens.

12 MEMBER TEBBENS: Yes.

13 CHAIRMAN FORTUNA: Trustee Valencia.

14 MEMBER VALENCIA: Yes.

15 CHAIRMAN FORTUNA: And I am a yes.

16 Motion carries.

17 (Whereupon, the Board went into
18 executive session off the record.

19 No action was taken in Executive
20 Session.)

21 MR. PINELLI: Let the record reflect this
22 is a hearing on the application for a Compensation
23 Widow's Annuity benefit made by Adell Truevillian,
24 widow of Robert Truevillian.

1 Is Ms. Truevillian on the line, do we
2 know?

3 MR. TORRES: She is not.

4 MR. PINELLI: I just wanted to make sure
5 if she was I include her.

6 For purposes of the Trustees, at this
7 time I would first move to admit Board Exhibits 1
8 through 7, which are the application for benefits,
9 the marriage certificate, the death certificate,
10 the CFD layup summary, the work history summary,
11 on-duty exposure summary, and the memo from the
12 Commissioner's office.

13 Mr. Chairman, I move for admission of
14 those exhibits into the record.

15 CHAIRMAN FORTUNA: Admitted without
16 objection.

17 MR. PINELLI: Thank you.

18 (Board Exhibits 1 through 7 were
19 admitted into the record.)

20 MR. PINELLI: Now, members of the board,
21 with respect to those exhibits, they demonstrate
22 that the widow Adell Truevillian meets the
23 eligibility requirements for a line of duty death
24 benefit under Section 6-140 of the Code in that she

1 was married to her husband Robert Truevillian, who
2 was a member of the Department, that Robert
3 Truevillian contracted COVID-19. He was exposed to
4 it and contracted it during the period of March 9,
5 2020 on or before December 31st of 2020. That as a
6 result of his contraction of that disease, that he
7 was ultimately hospitalized at MacNeal Memorial
8 Hospital and that as a result of the
9 hospitalization and the exposure to COVID-19 he
10 died at MacNeal Hospital on December 17th of 2020.

11 Under the statute, there's a rebuttal
12 presumption that if those requirements have been
13 met that in fact the widow is entitled to the Duty
14 Death benefits under the statute.

15 There is no evidence in this record that
16 would rebut that presumption and indeed all of the
17 evidence in the record establishes the criteria
18 under that section of the Code.

19 Therefore, based on this evidence, I
20 would recommend to the Board that it grant the
21 application made by Adell Truevillian for the Duty
22 Death benefits under Section 6-140.

23 MEMBER MURPHY: I'd like to make a motion
24 to grant the Compensation Widow's Annuity benefit

1 for Ms. Truevillian.

2 MEMBER VALENCIA: Second.

3 CHAIRMAN FORTUNA: There is a motion to
4 grant by Trustee Murphy. Seconded by Trustee
5 Valencia.

6 Trustee Murphy.

7 MEMBER MURPHY: Yes.

8 CHAIRMAN FORTUNA: Trustee Holt.

9 MEMBER NANCE-HOLT: Yes.

10 CHAIRMAN FORTUNA: Trustee
11 Conyears-Ervin.

12 MEMBER CONYEARS-ERVIN: Yes.

13 CHAIRMAN FORTUNA: Trustee McPhillips.

14 MEMBER MCPHILLIPS: Yes.

15 CHAIRMAN FORTUNA: Trustee Tebbens.

16 MEMBER TEBBENS: Yes.

17 CHAIRMAN FORTUNA: Trustee Valencia.

18 MEMBER VALENCIA: Yes.

19 CHAIRMAN FORTUNA: And I am a yes.

20 Motion carries.

21 MS. BURNS: Vince, did you do findings of
22 facts for this matter?

23 MR. PINELLI: Yes.

24 MEMBER MURPHY: I would like to make a

1 motion. Counsel has previously sent around the
2 findings of fact and conclusions of law in this
3 matter. Having had a chance to review those, I
4 make a motion to adopt the findings of fact and
5 conclusions of law in this matter

6 MEMBER TEBBENS: Second.

7 CHAIRMAN FORTUNA: Motion by Trustee
8 Murphy. Second by Trustee Tebbens.
9 Trustee Murphy.

10 MEMBER MURPHY: Yes.

11 CHAIRMAN FORTUNA: Trustee Holt.

12 MEMBER NANCE-HOLT: Yes.

13 CHAIRMAN FORTUNA: Trustee

14 Conyears-Ervin.

15 MEMBER CONYEARS-ERVIN: Yes.

16 CHAIRMAN FORTUNA: Trustee McPhillips.

17 MEMBER MCPHILLIPS: Yes.

18 CHAIRMAN FORTUNA: Trustee Tebbens.

19 MEMBER TEBBENS: Yes.

20 CHAIRMAN FORTUNA: Trustee Valencia.

21 MEMBER VALENCIA: Yes.

22 CHAIRMAN FORTUNA: And I am a yes.

23 Motion carries.

24 This is just for the record so based on

1 the findings of fact made by the Trustees, the
2 Trustees have voted to grant the benefit that has
3 been requested.

4 The notifications will be mailed of the
5 findings of fact and the Board's decision, that is
6 just for the record. Thank you.

7 MR. PINELLI: Let the record reflect this
8 is the hearing on the application for a Duty
9 Disability benefit being made by Mr. Aparicio
10 Rivera. Mr. Rivera is present. Sir, can you
11 please indicate your presence?

12 MR. RIVERA: I am here.

13 MR. PINELLI: I'd like to advise you of
14 some preliminary matters before we start evidence.

15 First of all, there are seven trustees
16 currently present on this hearing to determine your
17 application. If you don't know you should know you
18 need the yes vote of at least five of those seven
19 trustees in order to receive this benefit. Do you
20 understand that?

21 MR. RIVERA: Yes. Yes, I do.

22 MR. PINELLI: Okay. It also looks like
23 you are proceeding without an attorney today. Is
24 it your desire to proceed without an attorney?

1 MR. RIVERA: Yes.

2 MR. PINELLI: Lastly, it is the
3 applicant's burden of proof, your burden of proof,
4 to present such evidence to the Board in order for
5 the Board to grant the benefit that you are
6 seeking; is that correct?

7 MR. RIVERA: That's correct.

8 MR. PINELLI: By way of procedures, I am
9 going to start by asking you some questions under
10 oath. The board members may or may not have
11 questions of you. Then I will call the Fund's
12 physician consultant Dr. Samo to testify. If there
13 is anything I don't ask him that you think is
14 important for the Board to know, please let me know
15 and you will be given that opportunity. Do you
16 understand the procedures?

17 MR. RIVERA: Yes, I do.

18 MR. PINELLI: We are ready to proceed.
19 Mr. Rivera and Dr. Samo, could you both please
20 raise your right hands?

21 (Witnesses sworn.)

22 APARICIO RIVERA

23 a witness herein, having been first duly sworn, was
24 examined and testified as follows:

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EXAMINATION

BY MR. PINELLI:

Q Could you please state your name and spell your last name for the record?

A Aparicio Rivera, R-i-v-e-r-a.

Q What is your rank with the Fire Department?

A I am a Captain.

Q What was your last assignment before you went on layup?

A Engine 117.

Q Mr. Rivera, you should have been provided copies of Board Exhibits 1 through 13 prior to today's date. Did you receive a copy of those exhibits?

A Yes, I did.

Q Did you have a chance to review them?

A Yes.

Q Do you have any objection to their admission into the record in support of your application?

A No.

MR. PINELLI: Thank you.

Mr. Chairman, I move for admission of

1 Board Exhibits 1 through 13, without objection from
2 the applicant.

3 CHAIRMAN FORTUNA: Admitted without
4 objection.

5 (Board Exhibits 1 through 13 were
6 admitted into evidence.)

7 BY MR. PINELLI:

8 Q Now, Mr. Rivera, you are applying for
9 this disability benefit based upon an injury that
10 you sustained on November 7th of 2019; is that
11 correct?

12 A That's correct.

13 Q Sir, understanding that the Board does
14 have your sworn statement already before them,
15 could you just briefly summarize for us where you
16 were and what happened to you on that date?

17 A Yeah. I was a Captain at Engine 117. We
18 were dispatched to a fire, which was the second one
19 of the day. I ended up being second company in.
20 The first company went to the rear and reported a
21 fire and immediately boxed it. I got on the scene
22 with my company and I was instructed by my
23 Battalion Chief to do entrance on the first floor
24 with Truck Company 29.

1 While I was waiting for them to do
2 entrance on that first floor, I slipped on what was
3 on the -- it was on the porch -- type porch and I
4 slipped and there was -- it was snowing and an icy
5 day that day and I slipped on the stairs and I
6 grabbed the railing to break my fall and I tore my
7 bicep.

8 Q Have you ever injured -- which arm was
9 that?

10 A That was my right arm.

11 Q Had you ever injured your right bicep or
12 arm prior to that date?

13 A No, sir.

14 Q It looks like from the records after that
15 injury you underwent some conservative treatment,
16 but ultimately you ended up having a surgical
17 repair of your bicep on December 3rd of 2019; is
18 that correct?

19 A That's correct.

20 Q Following that surgical procedure, did
21 you then engage in a period of physical therapy
22 designed to get your right bicep back in condition
23 to go back to work?

24 A Yes, sir, I did.

1 Q Incidentally, before we talk about the
2 physical therapy, other than your right bicep, did
3 you injure any other part of your body in that
4 incident?

5 A No, no, just the right bicep.

6 Q Thank you. You began physical therapy --
7 do you recall approximately when you began the
8 physical therapy?

9 A Sometime in January after the surgery.
10 Surgery was in December and they gave me a month to
11 recover before the physical therapy so it was
12 started in January.

13 Q Okay. When you began the physical
14 therapy, were you doing it in-person?

15 A I started -- no, because the Covid thing
16 was very rampant in December and January at that
17 time so I started doing a video conference at home
18 with the therapist.

19 Q You started that immediately from the
20 beginning?

21 A No, I went in for counsel, went into the
22 PT, the office, and we did a couple of sessions and
23 I was informed if I wanted to stay-at-home and do a
24 couple of these things over the video chat or the

1 Zoom that we can do that.

2 Q Okay. So when you went into the facility
3 at first, where was that located or what was the
4 name of it?

5 A It's called Athletico in Six Corners on
6 Chicago's north side here.

7 Q Okay. So after the first couple of
8 in-person visits then you went to the virtual; is
9 that right?

10 A Exactly.

11 Q Can you just briefly describe for the
12 Trustees and myself, we don't have experience, how
13 did it work when you did it virtually? Were you on
14 the phone with them while you were doing things or
15 did you do things and then call them up and tell
16 them what you did? How did it work?

17 A No, I had like now the Zoom with the
18 audio and video.

19 Q Okay.

20 A A couple sessions later he gave me a
21 couple of things to bring home, rubber bands and
22 stuff like that, and then we discussed a couple of
23 workout drills I can do at home. He would call me
24 up and then we would do a virtual over the phone

1 and like I said it was visual and audio.

2 Q So the physical therapist is actually
3 watching you and directing you while you're doing
4 it at home; is that right?

5 A That's correct.

6 Q Okay. That was consistent every time you
7 did a physical therapy treatment before this
8 injury?

9 A Yes, that lasted only maybe three or four
10 weeks and then I couldn't get much further because
11 I don't have the proper equipment here to do it
12 all, but since this was just the beginning I could
13 do some of it at home because he gave me like I
14 said rubber bands and he gave me -- he showed me a
15 couple of routines that I can do at home with him.
16 And then when I got to the point where I can start
17 picking up weights and doing more range of motion
18 and stuff like that I came into the office and
19 started seeing him there.

20 Q Okay. Do you remember when it was that
21 you went back into the office to see him?

22 A I am going to say maybe April. Maybe
23 April, May. We did a few sessions in the office
24 for about a month or more.

1 Q Okay.

2 A Yeah.

3 Q Was it the same physical therapist that
4 you worked with consistently throughout all your
5 treatments?

6 A Yes, same guy.

7 Q Okay. I think his name is David Duelich,
8 D-u-e-l-i-c-h, does that sound right?

9 A No. It is Joshua Pilarski.

10 Q Okay, I'm sorry.

11 A P-i-l-a-r-s-k-i.

12 Q Now at some point while you were doing
13 the physical therapy your right bicep is getting
14 better, right?

15 A Yes.

16 Q And something happened to you that caused
17 you another injury?

18 A Yes. I was informed by the City that I
19 had to pass an evaluation, work evaluation test,
20 and the PT guy knew about it. He has done it
21 before and then we started -- when I was doing
22 weight lifting because of my arm was getting
23 better, my right arm, we started doing the more
24 intensive workouts which means now I am able to

1 lift five pounds and ten pounds and things in that
2 nature.

3 Q Okay. Did something happen to you to
4 cause you an injury when you went to this Work
5 Hardening type program?

6 A Yeah. We were on the evaluation because
7 like I said my right arm was feeling a lot better.
8 I still have a little pain from that but I am still
9 doing the evaluation. So we are doing -- there is
10 13 evaluations I had to do to get back on the job
11 and he knows. He had the list of evaluations that
12 I had to do and we were working on that. We were
13 doing weight lifting. We were doing dragging the
14 dummy. We were crawling on the floor and then I
15 started doing the weight lifting because I have to
16 pick 80 pounds up to my shoulder.

17 Q Okay.

18 A So while I was doing that I got injured.

19 Q What part of your body did you injure
20 while you were doing that?

21 A I injured my left rotator cuff.

22 Q According to your sworn statement, that
23 happened on April 17th of 2020, correct?

24 A That's correct.

1 Q Is it your testimony that that session in
2 which that injury occurred to you was going on
3 remotely or was it going on in-person at the
4 facility?

5 A That was in-person. I was there on the
6 17th. Each session lasts a hour and a half. I am
7 thinking maybe about 45 minutes to a hour into the
8 session, because prior to me getting hurt I did the
9 dummy drag which is a 160-pound dummy, crawling on
10 my knees and then we were doing weight lifting, the
11 dead lift. And then he asked -- he took -- because
12 we kept escalating the work because I have to do 80
13 pounds to my ear, lift 80 pounds to my shoulders,
14 and then I had to -- actually it is 100 pounds but
15 I was at 80 at the time. And then he informed me
16 that we should -- since I was doing 80 pounds on
17 the dead lift, that we can start doing the shoulder
18 lift, which is the time I got hurt right there.

19 Q Okay. So when you got hurt you felt pain
20 immediately?

21 A Yeah. I even told him. I stopped the
22 session right there. Actually, I dropped the
23 weights and everybody was kind of shocked. So I
24 dropped the weights and he came to me because he

1 was on the other side of the -- I want to say the
2 gym, the office. And he came up to me and he asked
3 me what was wrong. I said I think I injured
4 myself. I says I am -- I thought something on my
5 left side. At which point we stopped the session,
6 which I said was maybe 45 minutes or a hour into
7 it. He grabbed a bag of ice and put it on my
8 shoulder and I sat there for about 20 minutes to
9 make sure the swelling -- I wasn't swollen but it
10 was hurting and he put the bag of ice on there. I
11 told him that is it. We both agreed that the
12 session was over. I didn't want to get hurt again.
13 I didn't know what was going on.

14 I went home and the next couple of days
15 -- three days later I had the next session so
16 Monday to Wednesday. I went in the next day
17 Wednesday and I told him that I am still feeling
18 pain and that I called my doctor and that I was
19 going to go in and have him check that because I
20 was still feeling soreness and I was having pain
21 and it was a little swollen.

22 Q Did you go to your doctor, notify your
23 doctor, on April 17th of the left shoulder injury?

24 A No, I didn't. I don't remember when I

1 called him but I did call him around that timeframe
2 because if I remember I couldn't workout anymore
3 and I knew I had something going on here now. I
4 started to feel pain on the left side. So I called
5 him up and let him know that I think I injured
6 something on my left side.

7 Q Just so I am clear, your testimony is you
8 went to Athletico on April 17th of 2020 at which
9 time you injured your left shoulder while doing
10 weights, correct?

11 A That's correct.

12 Q And that you reported it, obviously, to
13 the physical therapist right when it happened,
14 right?

15 A Yeah, it was obvious. I mean he came to
16 me. I told him right away, you know, the session
17 is over. I think I injured myself. At that point
18 he grabbed the bag of ice and he started icing it
19 down.

20 Q But then you also testified you went back
21 on April 21st of 2020?

22 A Yes.

23 Q Right?

24 A Correct.

1 Q Did you do any lifting that day or did
2 you just tell him you were still having problems
3 with your --

4 A Yes, I went in the office and told him I
5 can't do the session and I am calling my doctor
6 that I am having pain on my left side and that was
7 the end of that.

8 Q Okay. Now, did you review the Board
9 Exhibits I take it, you said you did?

10 A Yes.

11 Q So you are aware that there are no
12 physical therapy notes in the records for either of
13 those dates, April 17th of 2020 or April 21st of
14 2020, right?

15 A Yeah. The only thing I can think of is I
16 got a letter from him, the physical therapist, that
17 I was injured that day.

18 Q Okay. Have you presented that to
19 anybody?

20 A I believe so. I believe I did.

21 Q Who did you present it to?

22 A The lady who called me for the -- that
23 was collecting the evidence for this.

24 Q Are you talking about the Fund staff?

1 A I am talking about the lady that -- let
2 me get her name. I was talking about the lady that
3 gave me -- that was collecting the evidence for the
4 doctor to see.

5 Q Okay. What does the letter say?

6 A It says that I was injured that day on
7 the 17th.

8 Q Do you have a copy of the letter?

9 A Yeah, I am looking for it right now.

10 Q Mr. Rivera?

11 A I am right here, sir.

12 Q I just have a couple more questions.
13 Perhaps you could hold off looking. Let me finish
14 my questions and then I will call Dr. Samo and then
15 you can continue looking while I do that.

16 A Yes.

17 Q So after this injury you testified about
18 subsequently you did tell your doctor and he
19 recommended a surgery; is that right?

20 A Yes, he did.

21 Q You had that surgery to your left
22 shoulder?

23 A Yes, I did.

24 Q In August of last year; is that correct?

1 A Yes.

2 Q Can you describe for the board members
3 currently, first of all, with respect to your
4 bicep, what is the condition of that?

5 A My right bicep, I am doing good on that.
6 I am a little stiff some mornings but I think I am
7 good at that right now. I mean the range of motion
8 and the weight lifting is fine with that on my
9 right bicep.

10 On the left one, I am still stiff. I am
11 still going to -- I still go to the doctors about
12 it. It is still stiff. I don't have the range of
13 motion. I can only go so far. I can only reach my
14 hand so far over my head. I can't pickup any -- I
15 can pickup some weights now but I can't pickup like
16 20 pounds or anything like that. I am still trying
17 to get the physical part of that back in order.

18 Q That is with respect to your left
19 shoulder, right?

20 A That's correct.

21 Q Okay. Since you went on layup have you
22 engaged in any activities with which you earn
23 income?

24 A No.

1 Q Have you engaged in any sporting
2 activities?

3 A No.

4 Q Are you currently taking any medication
5 prescribed by a doctor for pain?

6 A No medications for pain, no.

7 MR. PINELLI: Thank you, that is all the
8 questions I have at this time.

9 CHAIRMAN FORTUNA: Trustees, any
10 questions?

11 MEMBER TEBBENS: I have a question or
12 two. Hey, Riv, how are you? It is Trustee Rob
13 Tebbens. Are you there?

14 MR. RIVERA: Yes, I am.

15 MEMBER TEBBENS: This is going to be very
16 important because this is what the whole thing is
17 hinging on since it is an injury that was sustained
18 that is not the original injury for which you went
19 on a disability or your on-duty injury.

20 MR. RIVERA: Yeah.

21 MEMBER TEBBENS: My question to you is
22 this. We have been using the term physical
23 therapy. Now you have had a number of physical
24 therapy sessions, they were in-person. And this

1 shoulder injury to the left shoulder that occurs on
2 an in-person at Athletico is that where this
3 happened?

4 MR. RIVERA: Yes, that is correct.

5 MEMBER TEBBENS: And you were performing
6 a -- it doesn't sound like you were performing
7 physical therapy for the injury, the specific right
8 bicep injury. It appears that you were -- at least
9 according to what I can gather here, you were
10 performing tests that appeared to be fitness for
11 duty tests to return to duty. Was that the case?

12 MR. RIVERA: Yes, it is.

13 MEMBER TEBBENS: Because I don't know how
14 -- I mean the weights that you were explaining and
15 the tasks that you were being asked to perform
16 certainly don't seem like they were consistent with
17 the right bicep. More so as a return to duty. So
18 I would say that is more of a return to duty and
19 that is a task that you were doing there.

20 And another thing is was that technically
21 therapy or was that to assess whether you can
22 perform a fitness for duty to return to duty?

23 MR. RIVERA: Yes, we were starting to do
24 the evaluation.

1 MEMBER TEBBENS: To prepare you to return
2 to duty, not necessarily to rehabilitate and the
3 physical therapy for the specific injury; is that
4 correct?

5 MR. RIVERA: Yeah, pretty much it was
6 both because they were going to let him do the
7 evaluation and they were going to accept it at the
8 Fire Department.

9 MEMBER TEBBENS: They were actually doing
10 this as a Fire Department sanctioned test, correct?

11 MR. RIVERA: That's correct.

12 MEMBER TEBBENS: So Athletico is being
13 sanctioned somehow, and maybe we can substantiate
14 this through our attorneys, that in fact that the
15 City is sanctioning this return of duty test
16 through Athletico.

17 Also, I want to say that the -- you said,
18 Riv, that they treated you. This is very
19 important. If they treat -- if they applied ice
20 that is a medical treatment and it is an awareness
21 of an injury that had occurred at the time and that
22 is crucial to this claim right now. So, I mean, if
23 we can -- we need more documentation and I believe
24 that that exists and if you can provide that.

1 MR. RIVERA: Yes. I am sorry, go ahead.

2 MEMBER TEBBENS: Riv, if you can't
3 provide it today, it is less -- you know, it would
4 do your case -- it will support your case much more
5 if you have that documentation and as a result you
6 may have to defer this to the next month just so
7 you are aware of that as the attorney kind of
8 mentioned to you, informed you.

9 So that is what I am saying, it is very
10 critical and I think these pieces need to -- if you
11 could -- if you could support that treatment with
12 ice because that is a medical treatment. If they
13 didn't document that, that is really on their part.
14 You know, if we can get that claim supported by
15 another party, Athletico, that would greatly
16 support your case. So that is all I have.

17 MR. RIVERA: Okay. Okay. Like I said, I
18 just have to go -- I don't know what he did on his
19 part but, yeah, he put on ice on it. I actually
20 found the letter he send me on the email that I did
21 get hurt there.

22 MEMBER TEBBENS: That needs to be --
23 apparently, from what we are gathering here, that's
24 not in the record. If that letter that you are

1 speaking of were included in the record that would
2 lend some more support to this argument here. I
3 think if -- and I don't know what we can do here as
4 far as the timeline but it might be -- if you would
5 need to include that into the record, you might
6 need to defer this another month.

7 MEMBER CONYEARS-ERVIN: Mary Pat, is it
8 possible to go into executive session in the middle
9 of this?

10 MS. BURNS: Absolutely, at any time you
11 would like to go, you are able to go into closed
12 session.

13 CHAIRMAN FORTUNA: You can make that
14 motion.

15 MEMBER CONYEARS-ERVIN: I would like to
16 make that motion. Can you please advise me on the
17 Code?

18 MS. BURNS: Yes, ma'am. It is Section
19 2(c)4 of the Open Meetings Act, 2(c)4, in order to
20 discuss evidence heard in the hearing.

21 MEMBER CONYEARS-ERVIN: Motion.

22 MEMBER VALENCIA: Second.

23 CHAIRMAN FORTUNA: There is a motion by
24 Trustee Conyears Ervin. Seconded by Trustee

1 Valencia.

2 Trustee Murphy.

3 MEMBER MURPHY: Yes.

4 CHAIRMAN FORTUNA: Trustee Holt.

5 MEMBER NANCE-HOLT: Yes.

6 CHAIRMAN FORTUNA: Trustee

7 Conyears-Ervin.

8 MEMBER CONYEARS-ERVIN: Yes.

9 CHAIRMAN FORTUNA: Trustee McPhillips.

10 MEMBER MCPHILLIPS: Yes.

11 CHAIRMAN FORTUNA: Trustee Tebbens.

12 MEMBER TEBBENS: Yes.

13 CHAIRMAN FORTUNA: Trustee Valencia.

14 MEMBER VALENCIA: Yes.

15 CHAIRMAN FORTUNA: And I am a yes.

16 Motion carries.

17 (Whereupon, the Board went into
18 executive session off the record.

19 No action was taken in Executive
20 Session.)

21 MR. PINELLI: Mr. Rivera, can you hear
22 me?

23 MR. RIVERA: Yes I can.

24 MR. PINELLI: Sir, it has come to our

1 attention that certain records are not available to
2 the Trustees at this time in order for them to make
3 a decision on your case.

4 So in addition to the letter you have
5 talked about or the email, there may be additional
6 records from Athletico that also exist and that we
7 did not have the benefit of.

8 So based on the fact that it is your
9 burden of proof and it is in your best interest
10 that the Trustees have all of the available
11 information to them in order to make the correct
12 and fair and proper decision in this matter, we
13 believe it is in your best interest to defer the
14 matter to the next board meeting, which is March
15 17th, at which time you would be the first matter
16 on the docket, to complete this hearing. You have
17 testified and that's fine, but we haven't called
18 the doctor to testify or any other witnesses, if we
19 thought that was necessary, but that would be
20 important for the Trustees to have all of the
21 available information.

22 So that is what the Trustees are going to
23 do this morning is just to defer, keep the matter
24 open but defer it, to conclude it at the next board

1 meeting. Certainly, all of the documents that we
2 obtain, additional documents that were not part of
3 the Board Exhibits, we will make available to you
4 and get to you as well. They will be marked as
5 additional Board Exhibits.

6 MS. BURNS: Given that statement, is
7 there a motion by a Trustee to defer the Rivera
8 matter for the purpose of obtaining additional
9 evidence referenced by the applicant in his oral
10 testimony?

11 MEMBER MURPHY: I'd like to make the
12 motion on advice of Fund counsel.

13 CHAIRMAN FORTUNA: Trustee Murphy, you
14 are making the motion to defer, is that what I
15 heard?

16 MEMBER MURPHY: Yes.

17 MEMBER NANCE-HOLT: I will second it.

18 CHAIRMAN FORTUNA: There is a motion to
19 defer by Trustee Murphy. Seconded by Trustee
20 Holt.

21 Trustee Murphy.

22 MEMBER MURPHY: Yes.

23 CHAIRMAN FORTUNA: Trustee Holt.

24 MEMBER NANCE-HOLT: Yes.

1 CHAIRMAN FORTUNA: Trustee

2 Conyears-Ervin.

3 MEMBER CONYEARS-ERVIN: Yes.

4 CHAIRMAN FORTUNA: Trustee McPhillips.

5 MEMBER MCPHILLIPS: Yes.

6 CHAIRMAN FORTUNA: Trustee Tebbens.

7 MEMBER TEBBENS: Yes.

8 CHAIRMAN FORTUNA: Trustee Valencia.

9 MEMBER VALENCIA: Yes.

10 CHAIRMAN FORTUNA: And I am a yes.

11 Motion carries.

12 The matter is deferred.

13 MR. RIVERA: Could I have a question?

14 MS. BURNS: Yes, sir.

15 MR. RIVERA: I need to get evidence is
16 there -- what exactly do I need? I know I have to
17 get something from the physical therapy to verify
18 what happened that day to me there what they did,
19 that basically is it?

20 MS. BURNS: Sir, why don't you let us do
21 some of the groundwork on this for you. What we
22 will do is we will go back to the physical
23 therapist and make sure if there are records that
24 you have referenced we will then make sure that you

1 receive copies of the documents that we receive
2 and we will share those with the Trustees.

3 If we think we need something else from
4 you, we will be in touch with you, but right now
5 the burden is on us to see if we can supplement
6 this record, okay?

7 MR. RIVERA: Okay, great.

8 MR. PINELLI: You just take care of
9 yourself for now, okay?

10 MR. RIVERA: All right, thank you.

11 MS. BURNS: Thank you, sir.

12 MEMBER MURPHY: Mr. President, I'd like
13 to move to Item 5, Approval of Board Physician
14 Reviews of Disability Recipients. I'd like to move
15 to approve the Board physician's recommendations
16 for reviews.

17 MEMBER CONYEARS-ERVIN: Second.

18 CHAIRMAN FORTUNA: There is a motion to
19 approve by Trustee Murphy. Seconded by Trustee
20 Conyears-Ervin.

21 Trustee Murphy.

22 MEMBER MURPHY: Yes.

23 CHAIRMAN FORTUNA: Trustee Holt.

24 MEMBER NANCE-HOLT: Yes.

1 CHAIRMAN FORTUNA: Trustee

2 Conyears-Ervin.

3 MEMBER CONYEARS-ERVIN: Yes.

4 CHAIRMAN FORTUNA: Trustee McPhillips.

5 MEMBER MCPHILLIPS: Yes.

6 CHAIRMAN FORTUNA: Trustee Tebbens.

7 MEMBER TEBBENS: Yes.

8 CHAIRMAN FORTUNA: Trustee Valencia.

9 MEMBER VALENCIA: Yes.

10 CHAIRMAN FORTUNA: And I am a yes.

11 Motion carries.

12 MEMBER MURPHY: I would like to turn it

13 over to Lorna who will walk us through the

14 investment agenda.

15 CHAIRMAN FORTUNA: Thank you, Secretary

16 Murphy.

17 MS. SCOTT: So given the time I am going

18 to shorten up my report just a little bit. I will

19 probably start with the cash needs.

20 Just for some highlights, the investment

21 report primarily contains performance. Also a

22 reminder we do have an investment consultant RFP

23 outstanding so we are in the quiet period for that

24 search.

1 I am going to move the MWDBE broker
2 utilization and the IPS review to March so we have
3 a little bit more time on that.

4 So with that I will turn it over to
5 Jackie for Item D, February cash needs.

6 Marc, if you want to share your screen
7 for that one.

8 MEMBER CONYEARS-ERVIN: Lorna, are you
9 going to wait to speak about the response that we
10 received from Mellon? Are you going to wait until
11 next month for that?

12 MS. SCOTT: I am. Madam Treasurer, Brady
13 and I are very willing to have a conversation with
14 you and your team about all that offline as well
15 but I will cover it in March as well.

16 MEMBER CONYEARS-ERVIN: Okay, thank you.

17 MS. VLAHOS: For cash needs, as of
18 February 15th, we have a current cash balance of
19 approximately 5 million dollars. We are
20 anticipating an additional salary contribution by
21 the end of the month of almost 1.9 million bringing
22 our available cash to almost 7 million dollars.

23 With our benefit checks for the month of
24 February, outstanding checks, Death Benefits, we

1 have no Refunds this month and our regular office
2 payables brings us to expenditures for February of
3 33.5 million. Leaving us a shortage of
4 approximately 26.5 million.

5 If we can go to the next page to cash
6 flows. As you can see, I think as we discussed
7 last month, we are hoping to not have to do a
8 drawdown by February.

9 Like in all years, whenever we have the
10 first tax due date, it's usually March 1st, around
11 then, so we do start getting large tax receipts
12 usually by the end of the month.

13 However, I think what we're going to have
14 to do, and Lorna can talk about it a little bit
15 more, is that we are going to have to do like an up
16 to. So a 26.7 million draw we're going to need to
17 cover our expenses for this month but it will be an
18 up to.

19 Hopefully, we will get some larger tax
20 receipts in before the end of the month. I know
21 talking with some other people there is it looks
22 like an extension to May where you won't be charged
23 late fees.

24 However, last year I know that the City

1 of Chicago or the County has offered the same type
2 of thing and even though they offered that
3 extension, we still seemed that we were getting our
4 tax receipts on time.

5 So, hopefully, that is still going to be
6 the case this year and after that if we do need a
7 drawdown we should be good for the remainder of the
8 year due to the fact that this is the first year
9 under the new funding where we should be getting
10 371 million dollars this year and going forward due
11 to the new funding we shouldn't have any more draw
12 downs fingers crossed.

13 This is kind of in line with the way we
14 always collect tax receipts. Usually we get zero
15 amount in January and then usually in February we
16 always get it usually around the end of the month.
17 It just all is kind of centered around the way the
18 cycle works for how we receive our taxes.

19 Is there any questions?

20 MEMBER MCPHILLIPS: Jackie, are you
21 saying that we did receive zero in January of 2021?

22 MS. VLAHOS: Yes, which is normal. I
23 mean usually -- as I was talking to other people in
24 Illinois, I don't even think you received your bill

1 yet so it would be difficult to get tax receipts if
2 no one even knew how much they owed.

3 MEMBER MCPHILLIPS: Right. Historically
4 don't we at least get a trickle in January? I
5 mean, in 2022 you're predicting some money in
6 January.

7 MS. VLAHOS: No, usually what happens is
8 there is a little trickle over effect is what
9 happens is -- and I talked with Reshma. I know
10 she's not on the phone right now. Usually it is a
11 settle up. Usually they owe us a little bit from
12 the previous year so they will kind of settle up a
13 payment where we will get something end of January,
14 early to late February, where they are settling up
15 to make the last year whole but obviously this is
16 just an estimate.

17 MEMBER MCPHILLIPS: Okay, thank you.

18 MS. VLAHOS: No problem.

19 MS. SCOTT: Moving to the rebalancing
20 template. So the first column shows our allocation
21 as of February 12th. At the bottom of the first
22 column you can see we have cash at Northern of
23 about 1.7 million. Jackie has indicated she needs
24 26.7 million to replenish the Chase account.

1 On the template, I am proposing raising
2 all of this cash from the Wells Fargo account, that
3 is at the top of the page. This cash raise
4 proposition really relates to the next item on the
5 agenda that Brady is going to touch on but just in
6 a nutshell, an overview plan, is to sell the Wells
7 Fargo assets and transition those assets to the
8 Russell 1000 Value Index Fund managed by Rhumblin.

9 In the short-term, the immediate term,
10 we have a cash need in that we need cash for
11 benefit payments. The idea is to use some of that
12 cash from the Wells Fargo sale for benefit
13 payments. Then when we get City contributions,
14 those come in like generally late February early
15 March, then we will put that cash in the Russell
16 1000 Value Index Fund. Completing the whole Wells
17 Fargo transition from an active managed account to
18 an index fund.

19 I am going to turn right over to Brady to
20 kind of talk about why we are recommending
21 termination of Wells Fargo.

22 MR. O'CONNELL: Thank you, Lorna. There
23 is a memorandum from Callan and I will just try to
24 summarize it briefly.

1 So the MetWest Capital Team at Wells
2 Fargo Asset Management will be experiencing the
3 retirement of J.B. Nadal, the Senior Portfolio
4 Manager, who has been in charge since 2017.

5 As part of that change, they will also be
6 consolidating this asset management team and
7 shifting to a team that doesn't currently manage
8 large cap value equities.

9 Some of you may recall that this manager
10 was on the watchlist four years ago and I think
11 they were a great success story of prudently using
12 the watchlist. We put them on the watchlist
13 because the previous Portfolio Manager Jeffrey Peck
14 retired or was demoted and left the firm.

15 J.B. Nadal came in. He did a great job
16 turning the portfolio around. Performance
17 improved. He is now leaving. They are kind of
18 consolidating the team. What you will be getting
19 is something different than what we experienced in
20 the past and from what we bought.

21 So in light of that we're recommending
22 the Board consider terminating the Wells Fargo
23 MetWest team. This is an incident where we think
24 there is a little more urgency so we are bypassing

1 the watchlist mechanism and we're recommending the
2 Board take action.

3 In light of that recommendation from
4 Callan to terminate, and speaking with Lorna about
5 cash needs, it just made sense to source the cash
6 initially from Wells Fargo given that it may be
7 temporary until we get additional tax receipts
8 later in the month. But we want to maintain
9 exposure to the large cap value style, which they
10 bring to the overall portfolio, and then once we
11 have time to conduct a search to find another
12 active manager to implement this approach we will
13 do that. So this parking if you will in an index
14 fund is meant to be temporary so that we can find
15 another manager to oversee the portfolio on a
16 long-term basis.

17 I will pause there and see if there are
18 any questions about that recommendation from
19 Callan.

20 MS. SCOTT: If there are no questions,
21 then I am looking for a motion and it is kind of --
22 these are my words, I am sure legal will finesse
23 them a little bit. But it is a motion to terminate
24 Wells Fargo and hire Rhumblin subject to legal

1 contract negotiations to manage a Russell 1000
2 Value Index Fund with the transition of the assets
3 coordinated with the cash raise for benefit
4 payments and then subsequent reimbursing the
5 allocation from City contribution.

6 MEMBER MCPHILLIPS: Mary Pat, are you
7 happy with that motion?

8 MS. BURNS: I am, sir.

9 MEMBER MCPHILLIPS: I will make that
10 motion, Dan.

11 MEMBER MURPHY: Second.

12 CHAIRMAN FORTUNA: There's a motion by
13 Trustee McPhillips. Seconded by Trustee Murphy.

14 MS. SCOTT: That generally concludes the
15 action items in the investment report.

16 The last item is the Callan fourth
17 quarter review, which is the summary and then some
18 exposure charts and universe charts. We will leave
19 those for you and we are happy to have offline
20 conversations and meetings with anyone about those
21 items. Otherwise, that concludes the investment
22 report.

23 CHAIRMAN FORTUNA: Any questions? Thank
24 you.

1 MS. BURNS: Do you think maybe it would
2 be prudent, Brady, just to give an overview of the
3 fourth quarter, like what happened, without getting
4 into too many details?

5 MR. O'CONNELL: It was very good news so
6 I am always happy to spend a little more time on
7 the good news. If it is the Board's pleasure, I
8 can do that for a brief period of time. Just let
9 me know how much time you think I should spend.

10 MS. BURNS: Maybe just a minute for the
11 record.

12 MR. O'CONNELL: So the Fund had a very
13 good year in the fourth quarter. So some of you
14 will recall the first quarter was very difficult.
15 The Fund has a lot in public equities. It doesn't
16 have a lot in private equity or real estate.

17 So in the first quarter when the market
18 dropped the portfolio did poorly. What we saw in
19 the fourth quarter is a pretty significant rebound.

20 The Fund was up over 10 percentage
21 points. Importantly the small cap overweight that
22 is embedded in the portfolio helped so we saw
23 active management rebound and we saw some positions
24 that hurt us earlier in the year come back and

1 rebound.

2 So you may recall in the first quarter
3 when we were experiencing the pain of that position
4 we spent some time explaining what it was and why
5 we have it. We did see small cap and value come
6 back into favor in the fourth quarter and your
7 results benefited from that. So in the fourth
8 quarter we ranked in the top decile. I think we
9 are the Number 4 Fund in the universe and we
10 exceeded the performance benchmark.

11 So it was a very good quarter and it kind
12 of helped fill the performance gap that we saw in
13 the first quarter of 2020. All in all a very good
14 quarter.

15 MS. BURNS: Thank you, Brady.

16 MEMBER MURPHY: Mr. President, I'd like
17 to move on to Item 7, Expenditures, Administrative
18 Expenses for Board review and approval. I'd like
19 to make a motion to approve these expenses as they
20 are presented.

21 MEMBER VALENCIA: Second.

22 CHAIRMAN FORTUNA: There is a motion by
23 Trustee Murphy. Seconded by Trustee Valencia.

24 Trustee Murphy.

1 MEMBER MURPHY: Yes.

2 CHAIRMAN FORTUNA: Trustee Holt.

3 MEMBER NANCE-HOLT: Yes.

4 CHAIRMAN FORTUNA: Trustee

5 Conyears-Ervin.

6 MEMBER CONYEARS-ERVIN: Yes.

7 CHAIRMAN FORTUNA: Trustee McPhillips.

8 MEMBER MCPHILLIPS: Yes.

9 CHAIRMAN FORTUNA: Trustee Tebbens.

10 MEMBER TEBBENS: Yes.

11 CHAIRMAN FORTUNA: Trustee Valencia.

12 MEMBER VALENCIA: Yes.

13 CHAIRMAN FORTUNA: And I am a yes.

14 Motion carries.

15 MEMBER MURPHY: Mr. President, I would
16 like to move on to Item 8 Legislative Update and
17 Item 9 Executive Director's Report. Sarah, can you
18 please update the Board?

19 MS. BOECKMAN: Thank you. So the
20 legislative update report is included in your
21 materials from Phelps Barry & Associates. If
22 anyone has any questions, I am happy to take those
23 back to Brandon.

24 He did note that the filing deadline for

1 the House is this Friday so he expects there to be
2 some movement this week and that you might have a
3 more robust report from him at your March meeting.

4 He also indicated he would be available
5 to appear at the March meeting to answer any
6 questions about all the activity that we expect to
7 happen over the next month.

8 So you do have those reports in your
9 materials. If anyone has any questions, I am happy
10 to bring those back to Brandon or insure that he
11 contacts you to respond to those.

12 If not, I will move on to my Executive
13 Director's report.

14 Moving on to my Executive Director's
15 Report, I really just have three items. The first
16 included in your materials you should see some
17 information that Lorna prepared related to the
18 Fund's exposure to fossil fuel investments.

19 The reason that we included this
20 information is that a resolution was introduced by
21 City Council relating to fossil fuels and
22 requesting that the City funds cease new direct
23 investments and then also divest from direct
24 holdings and combined funds in fossil fuel

1 companies.

2 It was introduced and referred to
3 committee, the committee on Committees and Rules,
4 so there hasn't been any movement since the end of
5 January on this, but as part of that resolution the
6 City did ask all the funds, all the City funds, to
7 supply information relating to their exposure in
8 those investments and that is the material that
9 Lorna included on board pack.

10 I would just note from a legal
11 perspective, and I know Mary Pat would say this so
12 I apologize I hope I am not stealing her thunder,
13 but the City's Home Rule Authority with respect to
14 investment matters is expressly preempted by the
15 Pension Code. So as fiduciaries as you know you
16 are required to follow the Pension Code in making
17 investment decisions that are in the best interest
18 of the Fund's participants and beneficiaries.

19 So while you can absolutely in good faith
20 give information that is reasonably requested from
21 the City Council, you need to be very careful in
22 insuring that investment decisions are consistent
23 with the Pension Code and the best interest of your
24 participants and beneficiaries.

1 Like I said, there's been no movement on
2 this resolution but we did want you to be aware
3 consistent with the Fund's past practice that we
4 did supply this information to City Council.

5 MEMBER CONYEARS-ERVIN: Sarah, I was
6 looking at that letter. I don't know if that came
7 from City Council.

8 MS. BOECKMAN: Lorna, do you mind -- it
9 might have been someone within -- I don't have the
10 email pulled up. I don't know if I saw the email.

11 MS. SCOTT: I don't recall.

12 MEMBER CONYEARS-ERVIN: I just wanted to
13 note that, Sarah, because sometimes we see
14 letterhead and we start moving on things. I was
15 actually going to address that with all of the
16 Pension Funds and I just remember when you stated
17 this I just want us to be mindful of that and maybe
18 sometimes a phone call to see where it is going
19 because I don't think that came from City Council.

20 MS. BOECKMAN: That is a great point,
21 Madam Treasurer. I will touch base with Lorna on
22 that and we'll make sure when we are responding to
23 information we know where it is going and what it's
24 going to be used for.

1 MEMBER CONYEARS-ERVIN: Exactly. By the
2 way, Sarah and Mary Pat, if you can help for the
3 Pension Funds you are on, I think they all did just
4 what you did and I don't believe it came from the
5 City Council.

6 MS. BOECKMAN: Understood. Thank you. I
7 appreciate that.

8 So if there is no further comments on
9 that, I will move to the second item and I believe
10 this is also included in the materials that were
11 posted on board pack.

12 This is the ethics certification and I
13 know Steve raised this at the January meeting.
14 It's just a friendly reminder that as part of our
15 end of the year process with the Board we ask board
16 members to sign a certification acknowledging that
17 you had received a copy of the Ethics Policy and
18 that you understand the requirements therein.

19 It is included in board pack and what I
20 will also do is followup with an email after the
21 board meeting just so you have access right there
22 at your fingertips. If you could review that, sign
23 it and send it back to me, that would be great so
24 we have a record and again this is consistent with

1 the Fund's and the Board's end of the year process.

2 I will insure after this board meeting
3 that everyone has a copy of that and I would
4 appreciate everyone returning an executed copy to
5 me so thank you in advance.

6 And then the last two items on my report.
7 The first relates to a job posting for the Benefit
8 Analyst position. The Board approved this as part
9 of the approved budget for 2021 and I just wanted
10 to update the Board that I worked with Lori to
11 finalize the job description and it has been posted
12 formally.

13 So I encourage all Trustees to share that
14 posting, you can find it on our website, with
15 potentially eligible and interested candidates
16 because I know we're looking forward to having
17 qualified and good candidates to fill that role.
18 The position is open until March 5th. Anyone has
19 any questions on that?

20 Hearing none, the last item on my report
21 relates to the Executive Director search.

22 I am honored that the Board has asked me
23 to fulfill this role in an interim basis but it is
24 interim so I worked over the last couple weeks to

1 make sure that the job description was formally
2 posted.

3 It was shared with all of you and before
4 we go into specifics about the process and next
5 steps, I think there might be some interest on the
6 board to go into executive session but I did just
7 want to note that it has been formally posted.

8 MEMBER MURPHY: Mr. President, I would
9 like to make a motion that we proceed in closed
10 session pursuant to sections 2(c)1 and 11 of the
11 Open Meetings Act.

12 MEMBER NANCE-HOLT: Second.

13 CHAIRMAN FORTUNA: There is a motion by
14 Trustee Murphy. Seconded by Trustee Holt.

15 (Whereupon, the Board went into
16 executive session off the record.

17 No action was taken in Executive
18 Session.)

19 CHAIRMAN FORTUNA: I am going to need a
20 motion for the Executive Director's search. Would
21 you like to make that motion, Trustee McPhillips?

22 MEMBER MCPHILLIPS: Sure, Dan, I will
23 give it a shot.

24 A motion to form an Executive Director

1 search committee made up of the officers of the
2 Pension Fund. Also allowing any Trustees to attend
3 the meeting but without voting privileges.

4 CHAIRMAN FORTUNA: Do I have a second?

5 MEMBER NANCE-HOLT: Trustee Holt.

6 CHAIRMAN FORTUNA: There's a second by
7 Trustee Holt.

8 Trustee Murphy.

9 MEMBER MURPHY: Yes.

10 CHAIRMAN FORTUNA: Trustee Holt.

11 MEMBER NANCE-HOLT: Yes.

12 CHAIRMAN FORTUNA: Trustee

13 Conyears-Ervin.

14 MEMBER CONYEARS-ERVIN: Yes.

15 CHAIRMAN FORTUNA: Trustee McPhillips.

16 MEMBER MCPHILLIPS: Yes.

17 CHAIRMAN FORTUNA: Trustee Tebbens.

18 MEMBER TEBBENS: Yes.

19 CHAIRMAN FORTUNA: Trustee Valencia.

20 MEMBER VALENCIA: Yes.

21 CHAIRMAN FORTUNA: And I am a yes.

22 Motion carries.

23 Is there anything else, Mary Pat?

24 MS. BURNS: No, sir.

1 MEMBER MURPHY: If there is nothing else
2 on the agenda, I'd like to make a motion to
3 adjourn.

4 MEMBER TEBBENS: Second.

5 CHAIRMAN FORTUNA: Motion to adjourn by
6 Trustee Murphy. Seconded by Trustee Tebbens. All
7 in favor?

8 Trustee Murphy.

9 MEMBER MURPHY: Yes.

10 CHAIRMAN FORTUNA: Trustee Holt.

11 MEMBER NANCE-HOLT: Yes.

12 CHAIRMAN FORTUNA: Trustee

13 Conyears-Ervin.

14 MEMBER CONYEARS-ERVIN: Yes.

15 CHAIRMAN FORTUNA: Trustee McPhillips.

16 MEMBER MCPHILLIPS: Yes.

17 CHAIRMAN FORTUNA: Trustee Tebbens.

18 MEMBER TEBBENS: Yes.

19 CHAIRMAN FORTUNA: Trustee Valencia.

20 MEMBER VALENCIA: Yes.

21 CHAIRMAN FORTUNA: And I am a yes.

22 Thank you.

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24 (WHICH WERE ALL THE PROCEEDINGS

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IN THE ABOVE-ENTITLED MEETING
AT THIS DATE AND TIME.)

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