



James Beach, attorney for Ms. Maufer, appeared before the Board and presented his arguments opposing the Agency's position and the Administrative Law Judge's recommendations. Ms. Carla Katzenberg, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Executive Session.

Robert Herlth

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The Board considered the report of Alan B. Jacobson, Administrative Law Judge, in connection with the claim of Robert Herlth, for accidental disability benefits. The report included a report by the Medical Board and related medical documentation.

The Medical Board denied Mr. Herlth's claim for accidental disability retirement benefits based on its determination that the facts alleged by Mr. Herlth do not constitute an accident "at a definite time and place." Additionally, the Medical Board noted that Mr. Herlth's medical records reveal that while his work environment likely contributed to his symptoms, Mr. Herlth suffers from basic allergic difficulties, including seasonal rhinitis, exacerbated by his cigar use. Mr. Herlth appealed the Medical Board's decision.

Kristy Anderson, representing Mr. Herlth, appeared before the Board and presented her arguments opposing the Agency's position and the Administrative Law Judge's recommendations. Ms. Jill Leiner, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Executive Session.

Joseph D Z Korto

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The Board considered the report of Douglas E. Koteen, the Administrative Law Judge, in connection with the claim of Joseph Korto, for accidental disability benefits. The report included a report by the Medical Board and related medical documentation.

The Medical Board denied Mr. Korto's claim for accidental disability retirement benefits based on its determination that the facts alleged did not constitute an accident as required by Maryland Annotated Code, State Personnel & Pensions Article, Section 29-109.

Mr. Korto presented his arguments opposing the Agency's position and the Administrative Law Judge's recommendations. Ms. Carla Katzenberg, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Executive Session.

### Board Recess

At 11 20a m , the Chairman called for a recess of the meeting Dr Nancy Grasmick left the meeting at this time The Board resumed the meeting at 11 25a m

Cortex

- 5 Mr John Por and Mr Tom Iannucci of Cortex gave a presentation to the Board recommending governance documents for the Board of Trustees

After the detailed presentation, the Chairman requested Treasurer Kopp to chair a committee to review the report and report back to the Board The committee consists of Nancy K Kopp, Chairman, Arthur Caple, William Brown and Secretary James C DiPaula

Board Trustees were instructed to contact the committee with any concerns they may have prior to the final recommendation Treasurer Kopp was instructed to allow the members several days to review her recommendations prior to final Board approval

### Board Recess

At 1 03p m , the Chairman called for a recess for lunch The Board resumed the meeting at 1 15p m

Investment  
Committee Report  
& Recommendations

- 6 Mr Arthur Caple, Chairman of the Investment Committee, reported on the Committee's meeting held on May 9, 2003

The Board, on motion made by Mr Lancaster and seconded by Mr Caple, voted to approve the Real Estate Registry as submitted Any questions regarding the properties would be discussed in Executive Session

The Investment Committee received an informational presentation from Quaker Bio Ventures, a \$200 million Pennsylvania-based life science private equity fund The Committee discussed the possibility of investing in Quaker Bio Ventures and will research the matter further

Mr Caple noted the Committee heard presentations from five fixed income manager finalists Western Asset Management, Payden & Rygel, Principal Global Investors, Smith Breeden Associates and Bridgewater

Mr Caple further noted that Ms Vicki Willard updated the Committee on the status of the System's transition, noting the transition was right on target

Mr Caple remarked the Committee has a watch list of firms that have under performed and noted that further action was taken in the Committee's Executive Session

It was noted that fixed income funds would be discussed in Executive Session

The Board accepted Mr Caple's report

Mr Brown, Chairman of the Executive Committee, reported on the Committee's meeting held on May 6, 2003

Mr Brown reported the Executive Committee was addressed by Ms Mary Congo concerning the reduction to her retirement benefit resulting from a correction to her date of birth. Pension law does not give the Retirement Agency or the Board of Trustees the leeway to keep paying an incorrect benefit based on an incorrect date of birth. The Agency is required to correct the monthly benefit and seek to recover any excess benefits that have been paid based on the 1933 birth date.

The Board of Trustees, on motion made by Mr Brown and seconded by Mr Caple, unanimously approved the recommendation of the Executive Committee that the Agency recover the payments made in error from Ms Mary Congo at \$10 per month until the overpayment has been collected.

Treasurer Kopp requested that paragraph four under "Enacted Legislation-2003" regarding SB 721 be corrected to reflect that should SB721 be vetoed, Delegate Mary Delaney James, Co-Chair, Joint Committee on Pensions, will work with the Board to address the many issues raised by the bill, which could potentially preclude a veto override.

The Board accepted Mr Brown's report.

On motion made by Mr Caple and duly seconded, the Board voted unanimously to meet in Executive Session to consider the appeals of Tina Moore Maufer, Robert Herlth and Joseph D Z Korto. The Board also met to consider the following matters: investment of public funds, advice of counsel regarding litigation, personnel matters and Cortex recommendations. State Govt. Article, Section 10-503(a) authorizes the Board to meet in closed session to exercise a quasi-judicial function. Section 10-508(a)(5) authorizes the Board to meet in closed session to consider the investment of public funds. Section 10-508(a)(8) authorizes the Board to meet in closed session to consult with staff or other individuals about pending or potential litigation. Section 10-508(a)(1) authorizes the Board to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. Section 10-508(a)(13) authorizes the Board to meet in closed session to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.

#### EXECUTIVE SESSION

The Board met in Executive Session at 1:27 p.m. in the Board Room of the SunTrust Building at 120 East Baltimore Street to consider the appeals of Tina Moore Maufer, Robert Herlth and Joseph D Z Korto, the investment of public funds, advice of counsel regarding the Strategic System and Chapman related issues, a personnel matter, and Cortex recommendations. All of the persons present at the beginning of the meeting were present in Executive Session with the addition of William Kahn, Dana Reed, and Steve Sullivan. The following persons were not present: Nancy Grasmick, Jill Leimer, Carla Katzenberg, Joseph D Z Korto, Robert Herlth, Kristy Anderson representing Mr Robert Herlth, James Beach Esq., Attorney for Tina Maufer, Tom Iannucci, John Por and Ted Bayer. The Board adjourned its Executive Session at 3:10 p.m. and returned to regular session to complete the agenda.

**REGULAR SESSION**

On motion duly made and seconded the Board voted to ratify actions taken in Executive Session

The Executive Session minutes of April 15, 2003 will be amended to reflect revisions and additions recommended by the Trustees. These minutes will be submitted for approval at the Board's next meeting.

Tina Moore Maufer

The Board considered the record of Tina Maufer. Following a discussion, on motion made by Mr. Harrison and seconded by Mr. Lancaster, the Board voted unanimously to adopt the Administrative Law Judge's Proposed Findings and Conclusions of Law and deny Ms. Maufer's request for special disability benefits.

Robert Herlth

The Board considered the record of Robert Herlth. Following a discussion, a motion was made by Mr. Brown and seconded by Mr. Lancaster to reject the Administrative Law Judge's Proposed Findings of Fact and Conclusions of Law and grant Mr. Herlth's request for accidental disability retirement benefits. The motion failed by a vote of 2-4. On motion made by Secretary DiPaula and seconded by Treasurer Kopp, the Board voted 4-2 to adopt the Administrative Law Judge's Proposed Findings of Fact and Conclusions of Law and deny Mr. Herlth's request for accidental disability benefits. Messrs. Tydings, DiPaula, Harrison and Treasurer Kopp registered yea votes. Messrs. Lancaster and Brown registered nay votes.

Joseph D Z Korto

The Board considered the record of Joseph D Z Korto. Following a discussion, on motion made by Mr. Brown and seconded by Mr. Harrison, the Board voted unanimously to adopt the Administrative Law Judge's Proposed Findings of Fact and Conclusions of Law and deny Mr. Korto's request for accidental disability retirement benefits.

Executive  
Director's Report

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Mr. Lee advised the Board that the Employees' Retirement and Pension System Trustee election ballots will be distributed on May 30, 2003 and must be returned by July 2, 2003.

Ms. Deborah Bacharach reported on the Agency litigation and settlement with the Montgomery County Board of Education. She noted that Montgomery County has agreed to pay approximately \$1 million to the State's General Fund for the retirement and FICA contributions for certain County employees as the result of an Agency audit.

Ms. Bacharach also noted that the Agency had won the Roscoe Johnson appeal. Rachel Cohen handled this appeal. In this case, the Board had voted to pay survivor benefits to his estate rather than an active service death benefit to his sister. The Circuit Court upheld the Board's decision.

Major Krome noted his concern regarding health insurance for out-of-state retirees. If Blue Cross and Blue Shield and CareFirst should split and Care First is the only provider, approximately 10,000 retirees will be affected by the loss of health care insurance.

Mr. Lancaster requested that the September 19, 2003, Investment Planning Conference (Retreat) be held in a local hotel rather than Agency headquarters.

The Board accepted Mr. Lee's report.

Committee and  
Sub-Committee  
Reports and  
Recommendations

9 No committee reports were given.

Medical Board  
Reports

10 The Board, on motion made and duly seconded, accepted and approved the reports of the Medical Board in connection with applications of members for ordinary, accidental and special disability retirement allowances. The Medical Board's conclusions were reached after its review of the evidence provided by the claimants.

Supplemental  
Board Reports

11 The Board, on motion made by Mr. Lancaster and duly seconded, unanimously accepted and approved the Supplemental Report of the Medical Board in connection with applications of members for ordinary, accidental and special disability retirement allowances. The Medical Board's conclusions were reached after its review of the evidence provided by the claimants.

Attachment A

There being no further business before the Board, the meeting adjourned at 3:21 p.m.

Respectfully submitted,

Thomas K. Lee / mab  
Thomas K. Lee, Secretary

mcb