

March 31, 2023

Pension Benefit Guaranty Corporation
Multiemployer Program Division
Lock-In Application

Re: Exhibition Employees Local 829 Pension Fund

To whom it may concern:

This firm serves as counsel to the Exhibition Employees Local 829 Pension Fund ("Fund"). This correspondence is submitted in conjunction with the Fund's Lock-In Application pursuant to the Pension Benefit Guaranty Corporation ("PBGC") Special Financial Assistance ("SFA") regulation. Most importantly, this letter clarifies the role of the Fund's Independent Fiduciary in completing and executing the Fund's Lock-In application to the PBGC.

The PBGC Lock-In application requests that the Plan Sponsors' name be entered in Part I of the document. While the Fund was previously administered by a joint board of trustees, an Independent Fiduciary was appointed by United States District Court Judge Collen McMahon to replace the Plan's Board of Trustees in 2012. Since that time, the Independent Fiduciary has exercised sole and plenary authority of the Fund and is periodically required to report to Judge McMahon on the status of the Fund.

As a matter of law, the Independent Fiduciary is not the Plan Sponsor, as that term is defined in the Employee Retirement Income Security Act ("ERISA") and the regulations thereunder; consequently, the Independent Fiduciary cannot be designated in Part I of the Lock-in application as the Plan sponsor. Similarly, the Independent Fiduciary signed Part IV of the application as the Independent Fiduciary because she could not represent "she was a current member of the Board of Trustees." With regard to Part V, the Independent Fiduciary revised this provision because it would have required her to represent that she was a Trustee of the Fund or an "authorized representative of the Plan sponsor."

We trust this information clarifies why the Independent Fiduciary was required to modify or decline to sign certain provisions of the Lock-in Application. Please feel free to contact the undersigned should you have any questions or comments regarding this correspondence.

Sincerely,


Gregory Moore

LOCK-IN APPLICATION

Part I. Plan Information

District Council 37 Local 389 Home Care and Professional Employees Pension Fund

Plan name

Plan Actuary

Timothy L. Connor

Role of filer

Name of filer

150 Clove Rd, 10th Floor

timothy.connor@milliman.com

Street address of filer

Email address of filer

Little Falls, NJ, 07424

973-569-5609

City, State, ZIP Code of filer

Telephone number of filer

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EIN PN

DC 37 Local 389 Home Care Employees Pension Fund

Plan sponsor name

420 West 45th Street, 5th Floor

abrowne@l389hw.org

Street address of plan sponsor

Email address of plan sponsor

New York, NY, 10036-3501

212-925-6033

City, State, ZIP Code of plan sponsor

Telephone number of plan sponsor

Jahmila K. Edwards

Plan sponsor's authorized representative's name (if any; if none, then leave these spaces blank)

420 West 45th Street, 5th Floor

JEdwards@DC37.NET

Street address of authorized representative

Email address of authorized representative

New York, NY, 10036-3501

212-925-6033

City, State, ZIP Code of authorized representative

Telephone number of authorized representative

LOCK-IN APPLICATION

Part II. Eligibility

The plan is eligible* for SFA because it meets the criteria for eligibility under (check all that apply):

<input checked="" type="checkbox"/>	§ 4262.3(a)(1) of PBGC's SFA regulation
<input type="checkbox"/>	§ 4262.3(a)(2) of PBGC's SFA regulation
<input type="checkbox"/>	§ 4262.3(a)(3) of PBGC's SFA regulation**
<input type="checkbox"/>	§ 4262.3(a)(4) of PBGC's SFA regulation

* PBGC will not verify a plan's assessment of its eligibility for SFA until it receives the plan's revised application. If PBGC determines that the plan was not eligible on the date when the lock-in application was filed, then the lock-in application will not establish the plan's base data.

**For information on how to determine eligibility under this provision, see Section D, Item (3)c of the general instructions.

Part III. Priority Group

This section is required only for a lock-in application filed on or before March 11, 2023. If filing after that date, then leave this section blank and skip to Part IV.

Priority Group 5. Is the plan projected to become insolvent before March 11, 2026?

Yes No

If yes, then, except as provided below, the filer must provide a certification from the plan's enrolled actuary that the plan is eligible for Priority Group 5. This certification should specifically identify Priority Group 5 and contain sufficient information to demonstrate that the plan is eligible for Priority Group 5, including details of relevant plan projections and clear documentation of all assumptions, methods, and census data used in such projections.

Priority Group 6. Is the plan listed on www.pbgc.gov/arp-sfa as having a present value of financial assistance in excess of \$1 billion?

Yes No

If yes, skip to Part IV. Also, if yes and the plan is also in Priority Group 5, then the filer does not need to provide the supporting documentation described above.

If applicable, PBGC will post additional priority groups eligible to submit lock-in applications, the date PBGC will begin accepting applications for plans in additional priority groups, and any required information for a plan to demonstrate its priority group status on PBGC's website at www.pbgc.gov. Also, PBGC may require a plan sponsor to file additional information, including information to clarify or verify the plan's priority group status.

Part IV. Certification

This part must be signed and dated by an authorized trustee who is a current member of the board of trustees.

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Under penalty of perjury under the laws of the United States of America, I declare that I am an authorized trustee who is a current member of the board of trustees of the: (insert plan name) District Council 37 Local 389 Home Care and Professional Employees Pension Fund and that I have examined this application, and, to the best of my knowledge and belief, the application contains all the relevant facts relating to the application; all statements of fact contained in the application are true, correct, and not misleading because of omission of any material fact.

Mark Paul _____ Date 3/31/23
Signed _____
MARK PARAVOA _____ Trustee
Printed name of signatory _____ Title

Part V. Statement of Intent

The part must be signed and dated by: (1) a trustee who is a current member of the board of trustees and authorized to sign on behalf of the board of trustees, or (2) another authorized representative of the plan sponsor. Part IV and Part V may but need not be signed by the same individual.

By submitting this lock-in application, I am submitting an initial application for SFA for: (insert plan name) District Council 37 Local 389 Home Care and Professional Employees Pension Fund, with the intent to lock in the plan's base data.

Mark Paul _____ Date 3/31/23
Signed _____
MARK PARAVOA _____ Trustee
Printed name of signatory _____ Title

PAPERWORK REDUCTION ACT NOTICE

This section provides information on the time and cost estimates for preparing and filing the lock-in application. If you have any comments concerning the accuracy of these estimates or suggestions for making it simpler to submit the information, please send your comments to the Pension Benefit Guaranty Corporation, Office of the General Counsel, 445 12th Street, SW, Washington, DC 20024-2101.

Information filed with PBGC in an application for special financial assistance (SFA) is confidential only to the extent provided under the Privacy Act. PBGC may, in its sole discretion, post an application for SFA and any documents and information filed for the application on its website at www.pbgc.gov, or otherwise publicly disclose the application, documents, and information, except information that is confidential under the Privacy Act.

PBGC will share with the U.S. Department of Labor and the Treasury Department (collectively, the Agencies) a plan's application, including any documents and information filed with PBGC, to enable the Agencies to fulfill their responsibilities under section 4262 of ERISA.

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This information collection is necessary for PBGC to properly administer the SFA program. PBGC uses the information it receives in a plan's lock-in application to record the filing date for the plan's initial application for SFA.

PBGC estimates an average per plan hour burden of 1 hour of fund office time and an average cost burden of \$800 in contractor costs. These are estimates and the actual time and cost per plan will vary depending on the circumstances of a given filing and the size of the plan.

This collection of information has been approved by the Office of Management and Budget (OMB) under control number 1212-0074 (expires 07/31/2023). Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.