

**DEFUNCT AIR JAMAICA PENSION FUND**

**MEETING OF BENEFICIARIES**

**MONTEGO & NEGRIL SUITES, LE MERIDIEN PEGASUS HOTEL**

**MONDAY JUNE 18, 2001 – 5:30 P.M.**

**CHAIRMAN - RAYMOND CAMPBELL**

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**A G E N D A**

- 1. ARRIVAL & SEATING ..... 5:30 p.m.**
- 2. WELCOME & INTRODUCTION OF PLATFORM..... 5:45 p.m.**
- 3. UPDATE TO BENEFICIARIES..... 5:50 p.m.**
  - A. CURRENT STATUS**
  - B. FINANCIAL SUMMARY**
  - C. NEXT STEPS**
- 4. REMARKS - IAN BLAIR .... 6:15 p.m.**
- 5. PAYOUT PROCESS – CYNTHIA MULLINGS..... 6:20 p.m.**
- 6. REMARKS – JOY CHARLTON ..... 6:40 p.m.**
- 7. LEGAL ISSUE – DONOVAN WALKER ..... 6:45 p.m.**
- 8. DISCUSSION ..... 6.55 p.m.**

**APPENDIX 1**  
**DEFUNCT AIR JAMAICA PENSION FUND**  
**TRUSTEES UPDATE TO BENEFICIARIES**  
**FOLLOWING MEETING WITH THE MINISTER OF FINANCE**  
**ON FRIDAY MAY 11, 2001**  
**14.05.01**

**1.0 BACKGROUND**

As indicated in our update presented to our meeting with beneficiaries on Wednesday May 2, 2001, your Trustees were invited by the Minister of Finance and Planning to a meeting in his office on Friday May 11, at which we expected to deal with the following issues:

- 1.1 The timing and method of repayment of the employees' share of the surplus, which by our advisors' calculations stood at J\$ 1,445,693,997.00 as at April 30, 2001, with interest accruing daily at more than J\$ 1 million.
- 1.2 That the method used by the Ministry of Finance in calculating the surplus due is unacceptable, incorrect and at variance with the Privy Council's judgment because:
  - a) The rate of 29.47 %, compounded annually, as mandated by the Privy Council was not applied.
  - b) The employee's share of the surplus is not calculated on contributions made to the Fund as ruled by the Privy Council
- 1.3 That the J\$ 927, 214,746.34 offered by the Ministry in "***full and final settlement***", by letter dated April 11, could not be accepted, as the Trustees have no authority to vary the decision of the Privy Council.
- 1.4 The Trustees offer, by letter dated April 25, to accept the J\$ 927,214,746.34 ***as an interim payment, without prejudice***, towards the J\$ 1.4 billion owing.

**2.0 MEETING WITH THE MINISTER OF FINANCE**

- 2.1 Your Trustees, their advisors and others met with the Minister of Finance and his advisors at his office at 3:30 p.m. on Friday May 11. Trustees and those accompanying them were:

**Trustees:**

Mr. Raymond Campbell, representing CIBC Jamaica.

Ms. Joy Charlton

Mr. Ian Blair

### **Advisors**

Mr. Richard Downer, Senior Partner, PricewaterhouseCoopers  
Mr. W. John Vassell Q.C., Attorney-at-Law, Dunn Cox & Orrett  
Mr. Donovan C. Walker, Attorney-at-Law, Dunn Cox & Orrett  
Mr. Astor Duggan, Watson Wyatt Duggan, Consultant Actuaries)  
Mr. Geoffrey Melbourne, Watson Wyatt Duggan, Consultant Actuaries

### **Others**

Mr. Patrick Foster, Attorney-at-Law, Clinton Hart & Co.  
Ms. Catherine Clayton, Legal Secretary for recording the proceedings

2.2 The following issues were discussed:

#### **(i) Publicity**

The Minister was of the opinion that the Trustees had an agreement with him not to speak to the media pending the outcome of negotiations. However, the Trustees reminded the Minister that they had previously advised him of their legal duty as trustees to update and report to their beneficiaries. We had, however, indicated that we would provide him with advance copies of all releases and updates.

#### **(ii) Payment of sum owing to the Pension Fund**

The Minister told the Trustees, advisors and those present that at a recent Cabinet Meeting he had been authorised to make the following offer:

***The cabinet of the government of Jamaica offers in full and final settlement to the beneficiaries the sum of J\$927,214,746.34, adjusted for taxed costs and income tax. It is up to the trustees and their membership to proceed, as they deem appropriate if they do not accept this offer.***

The Minister did not indicate that this sum could be regarded as an interim payment, pending resolution of the outstanding issues regarding its calculation as proposed by the Trustees in their letter of April 25.

The Trustees advised the Minister that they were unable to accept the amount offered as ***full and final settlement***.

As there appeared to be no further room for discussion, the Trustees, their advisors and others in attendance left the meeting.

### 3.0 CONCLUSION

The Trustees are deeply disappointed that at the meeting, the Minister merely restated the offer set out in his letter of April 11, 2001, which the Trustees had indicated could not be accepted. We are the more disappointed especially since on May 10, the day before our meeting, the Minister had issued a press release, which among other things, stated that he had agreed to the meeting with the Trustees to, “*seek to come to an interim solution with the clear option available to either party to return to the courts to clarify any outstanding questions...*”

Furthermore, the Minister has to date, not seen fit to consider or to respond to the interim solution proposed by the Trustees in our letter of April 25, 2001, which had been presented to the beneficiaries in the meeting of May 2, 2001.

In addition, since the government has sought to act outside the Privy Council ruling, it is their responsibility to seek clarification through the courts.

The Trustees wish to make it abundantly clear that the Trustees would accept tomorrow morning the Minister’s cheque of J\$ 927,214,746.34 as long as the words full and final payment are not associated with the payment.

The Trustees and their advisors maintain that the employee portion of the surplus is J\$1,445,693,997.00 as at April 30, 2001, with interest accruing daily in excess of J\$1.1 million and that payment of this amount would bring the matter to full and final settlement.

The Trustees remain available to meet with the Minister’s team to discuss the areas of difference.