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# DECLARATION OF PATRICK BYRNES MSPA, EA, MAAA

Patrick Byrnes declares:

1. I am an enrolled actuary (EA). I am the president of Actuarial Consultants, Inc. ("ACI"). I am also a member (MSPA) and past president of the American Society of Pension Professionals and Actuaries ("ASPPA"), a 6,000-member national actuarial organization headquartered near Washington, DC. I am also a member of the American Academy of Actuaries (MAAA), and a founding co-chair of the Los Angeles Benefits Conference, which is held annually and is sponsored by ASPPA, the IRS and more than 20 employee benefits-oriented organizations. I am also a founding director of the College of Pension Actuaries (COPA) and in 2007-2008 Co-Chaired the Transition Team through a successful transaction affiliating COPA with ASPPA.

2. In 1999, I was presented with the IRS Los Angeles District Director's Award (for my service to the pension industry and the Benefits Conference). In January 2004, I received the Commissioner's Award from the IRS for "dedication and outstanding personal contribution" to the country's retirement plan system. I am advised that this is the highest honor that can be bestowed by the Commissioner of the IRS.

3. In November 2005, I was awarded The Harry T. Eidson Founders Award, which recognizes exceptional accomplishments and contributions to organizations or the pension industry. I am advised that recipients of this award are chosen for their contribution over time and have delivered "above and beyond reasonable expectations". It is my understanding that this is most prestigious honor bestowed by ASPPA.

4. I earned my bachelor's degree from the University of Santa Clara and my MBA from the Wharton School of the University of Pennsylvania.

5. Each fact set forth in this declaration is known to me of my own personal knowledge. If called as a witness I could and would competently testify to each fact set forth herein.

6. My firm has been retained to review documents and assist in offering opinions regarding certain issues in this case. In particular, we have been asked to comment on the claims of the Screen Actors Guild ("SAG") regarding merger of the SAG pension and health plans with the comparable benefit plans of the American Federation of Radio and Television Artists ("AFTRA"). Our comments will be limited to only the pension components of these plans.

7. Specifically, SAG has publicly assured its members that "merging the unions and the Plans would only <u>benefit</u> Plan participants." (SAG Rebuttal Statement, Exhibit A) They also state in the same document that "**merger is the best way to protect our benefits**." (Emphasis in original)

8. Similarly, we are advised that SAG officials have been holding merger meetings around the country to educate members regarding the facts about merger as they see them. At those meetings, SAG fiduciaries have been making statements to the effect that the letters obtained by SAG from ERISA lawyers support the foregoing claims. Respectfully, we disagree.

9. My firm and I have extensive experience working with pension plans. We have reviewed the most current publicly available information regarding the SAG and AFTRA plans as well as the 2003 Mercer Report prepared by

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Management Trustees contemplating a similar SAG/AFTRA merger proposal at that time. It states in significant part:

> "If one design is to apply to SAG and AFTRA participants, suggested approach will be to determine a combined future design…this will almost certainly mean either that contributions will need to increase or that benefits will be lower than current benefits for most members."

They went on to conclude that the:

> "Combined plan will not be able to afford all of the desirable features of both plans - absent contribution increases."

(Mercer Report, Page 28, Exhibit B)

10. We have also reviewed the declaration of Alex Brucker, a noted ERISA lawyer, including his similar conclusion that:

> "Until a full and formal ERISA Impact Report of how to address and quantify these problems is completed, no one, not even pension experts, can intelligently evaluate or quantify the probable negative impact on the member's pension and health benefits." (Emphasis in original)

11. Further, we have analyzed the relative richness of the plan benefits offered by SAG vs. AFTRA. SAG pension benefits are fairly straightforward and accrue at the rate of 2% of compensation per year vs. AFTRA pension benefit calculations which are more complicated but generally result in benefits of less than 1% of compensation per year. The exact amount of benefits earned in the AFTRA

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plan depends on the contribution rate in the contract negotiated for the work performed. SAG has an early retirement reduction of 3% per year vs. the AFTRA early retirement reduction of 6%.

12. All of these facts were approved for factual accuracy by SAG, as part of the Referendum Statement of Opposition process. (The Opposition Statement is attached hereto as Exhibit C)

13. Finally, we have considered the 2012 conclusion of the AFTRA Trustees, who stated that:

> "The merger of pension and health funds as large and divergent as the AFTRA and SAG plans raises complex and unique financial, legal and benefit issues which can only be addressed through a comprehensive analysis performed by the fund." (Exhibit C)

14. After considering the foregoing materials, we have reached the following conclusions.

15. First, it would be prudent for the Pension Trustees to meet before voting on merger of the unions to discuss cost and benefit implications to the pension plans associated with the merger. Normally, in the merging of entities the issues of what will happen to the plans of each entity are decided after a thorough analysis that is completed before the transaction takes place. This is part of the due diligence process.

16. Second, we are assuming they want to combine the pension plans into one common plan, because they have made express statements to that effect. These

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statements have been in the context of their assurances to members that the merger of the unions will solve the "split earnings" issue. The split earnings issue relates to the fact that members must now earn enough each year to qualify under two plans in that year, <u>because the plans are now separate</u>. Merging the plans could solve this issue, but the cost of providing additional benefits must be considered, as discussed below.

17. With the assumption stated by SAG that there is a desire to merge the pension plans, it is at a minimum prudent to have the impact of the plan merger evaluated by a qualified actuarial organization under several different designs. Actuarial valuations for both plans are currently being done by the same actuarial organization. It would be more cost effective if that organization performed the studies since they already have the massive amounts of data in their systems. While we only have public information on the plans provided by the Department of Labor, it appears that both plans are significantly underfunded. It is assumed that there will be financial constraints in the new combined formula or formulas if the plans are merged.

18. If SAG and AFTRA seek to merge the plans without this level of due diligence, they may create serious impact issues which would be very difficult, if not impossible, to correct.

19. While no study can predict future outside impacts on the plans from the behavior of financial markets or developments in the industry, what can be determined is whether each plan is better able to provide current benefits with current contributions before or after a merger of the plans. Actuarial analysis can isolate the merger variable, without concern for the inevitable financial and political pressures which will impact any and all plans now and in the future.

20. This is the kind of due diligence which could, and in our view, should be done before proposing to merge the unions based upon a promise that "merging the unions and the Plans would only benefit Plan participants." Until such a study is done, no one can assure anyone of the impact on merged plans. The implications of a merger without considering the benefits currently being earned by plan participants and the assets available to pay those benefits have been previously provided in the Mercer report, Exhibit B, which is consistent with the statements of Mr. Brucker.

21. The statements of the seven law firms opining about the feasibility of the merger of the unions or the plans have given opinions only about the feasibility of mergers in general. They do not consider the actual impact of this proposed action, and none of the specifics of the organizations or plans in question have been evaluated. Their input does not provide any basis to conclude what will happen when you merge the plans including that future SAG benefits will be safe.

22. As actuaries, we have looked at the relevant information available to us. Presumably the lawyers opining about this issue for SAG have done the same. While we do not have the detailed data (in the possession of the Trustees) from which we would be able to make specific recommendations, we have enough information to reach the following conclusions:

23. The existing SAG pension plan is relatively richer and more beneficial to the SAG members, than the existing AFTRA plan. Generally speaking, based on my experience, it is not possible to merge a plan with higher benefits and a plan with lower benefits and (without additional funding) produce a joint plan providing the equivalent of the higher benefit formula for all participants

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24. Without performing a study to determine how the combined plans would be merged, there is no way to know precisely if or how much the benefits to SAG members would have to be reduced or if contributions by all members would have to be increased. But, in my experience, it is likely that combination of the existing SAG and AFTRA plans will either require additional funding or SAG benefits would have to be reduced.

25. The bottom line is without doing the due diligence necessary to resolve these issues, the most that can reliably be stated is that merger of the existing plans probably will result in negative impacts on SAG member benefits, as the Mercer report and Mr. Brucker have stated. Any claims to the contrary seem unsupportable from our view.

26. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 24, 2012.

Patrick Byrnes