

# LOVE CANAL MEDICAL FUND, INC.



30<sup>th</sup> Anniversary Walking Tour, August 1, 2008

# ANNUAL REPORT 2008

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## I. INTRODUCTION

This Board of Directors report for the Love Canal Medical Fund, Inc. (LCMF) is for the year ending December 31, 2008. The following two paragraphs describe the creation of the Love Canal Medical Trust Fund and the Love Canal Medical Fund, Inc.

### **A. Creation of the Love Canal Medical Trust Fund:**

On December 20, 1983, the Supreme Court, State of New York, County of Niagara, approved a settlement agreement between the plaintiffs and the defendants in the case of Urban et al. vs. Occidental Chemical Corporation et al. The settlement agreement called for the establishment of the Love Canal Medical Trust Fund (LCMTF) for the benefit of the living plaintiffs of the lawsuit. The purpose of the Medical Trust Fund is to provide future benefits to plaintiffs who incur medical expenses related to medical problems, which reasonably could have been associated with exposure to toxic chemicals emanating from a former landfill in Niagara Falls, New York, known as the "Love Canal". Individuals who are eligible for benefits from the Love Canal Medical Trust Fund are limited to those thirteen hundred twenty-eight (1328) plaintiffs who entered into the settlement agreement.

### **B. Creation of the Love Canal Medical Fund, Inc.**

On January 4, 1985, the same court ordered the establishment of a not-for-profit corporation to be named the "Love Canal Medical Fund Inc" (LCMF) to administer the Love Canal Medical Trust Fund, subject to the Court's supervision. The Court ordered that the Fund receive from the settlement the amount of one million (\$1,000,000) dollars and directed that the Fund report to the Court annually concerning its activities, and that the Court approve all expenditures. The Fund's Certificate of Incorporation was filed with the Secretary of State, State of New York on August 5, 1985. All of the Board's actions are subject to Court approval.

## II. BACKGROUND and ADMINISTRATION of the LOVE CANAL MEDICAL FUND

The Love Canal Medical Fund applied for and was granted tax exempt status under Section 501(c)(4) of the Internal Revenue Code in 1989. Form 990 – Return of Organization Exempt From Income Tax is filed with the Internal Revenue Service annually. A copy is available upon request.

LCMF received tax-exempt status from New York State sales tax in 1991. Payment of medical expenses from LCMF to beneficiaries is tax exempt.

### **A. Board Members**

The New York State Supreme Court appointed the initial members of the Board of Directors. Additional Board members have been appointed by the Board and approved by the Court. The majority of the Board of Directors consists of one-time residents of Love Canal while others are experts in professions related to administration of the Fund. All Directors volunteer their services. A list of the Board of Directors who served in 2008 is included at the end of this report.

## **B. Medical Benefits Plan**

The Board of Directors of the Love Canal Medical Fund was directed by the Court to develop and submit to the court for approval, a Medical Benefits Plan containing a process for the distribution of benefits to the beneficiaries of the Love Canal Medical Trust Fund. In response, the Medical Benefits Plan was prepared first in 1987 and later updated in 1994, 1996, 1999 and 2008. Amendments were made to the plan that had time limits, some of which were renewed several times, such as medications and appliance coverage. Some amendments were allowed to expire. The Plan is not an insurance policy. Beneficiaries should not rely upon the Medical Benefits Plan as their primary or sole source for reimbursement of medical expenses. Nor should the Medical Benefits Plan be considered a substitute for health insurance.

The Medical Benefits Plan describes the conditions, provisions, exclusions, and limitations of the coverage provided by LCMF for medical expenses incurred by beneficiaries for medical conditions, which reasonably could be associated with exposure to toxic chemicals found at the Love Canal, toxic waste site. The Plan also covers preventive and diagnostic procedures for early detection of medical conditions that could reasonably be associated with exposure to toxic chemicals. These medical conditions could have been present at the time of residency in Love Canal, or they may be any of the many medical conditions that may have developed since moving away from the area.

The Plan will pay up to a maximum of \$10,000 per beneficiary per year for covered medical expenses subject to a list of exclusions and limitations. Beneficiaries are directed to the Medical Benefits Plan Booklet for a list of these exclusions and limitations. Coverage provides for one annual routine physical examination per beneficiary per year.

## **C. Submission and Payment of Claims**

A procedure was established to review, approve, and pay claims. Claims are submitted on forms provided by the LCMF and are also found on the LCMF web site. Claims are received and processed by Albert F. Stager, Inc., a professional claims adjuster. The claims adjuster makes recommendations based on the Medical Benefits Plan. These claims are assigned a file number, so the identity of the claimant is not known to Board members. The processed claims are then sent to the LCMF Board. Claims are reviewed by the full Board or its authorized Committee that meets between Board meetings, to discuss and vote on each claim. The Board's decisions are then given to Albert F. Stager, Inc. who responds to the beneficiaries and issues payment of approved claims. Stager may contact people to clarify questions raised by the Board or to obtain additional information. People whose claims are denied, are also contacted by Albert F. Stager, Inc., and given the reason for the denial, and a description of the appeals process. Albert F. Stager has processed claims for the LCMF since the program was established.

## **D. Claims for Board Members**

Some members of the Board of Directors are beneficiaries of the Fund. The Court ruled that Board members who are beneficiaries are entitled to payment of their medical claims. Procedures were established so that Board Members who have a claim against the Fund do not review or vote on their own claims. They are excused from that portion of the meeting. Claims paid to Board members are taken from the principal of the Fund and not the earnings as directed by the New York State Supreme Court.

### **E. Medical Appeals Board**

The Fund established a Medical Appeals Board in 1990. The purpose of the Medical Appeals Board is to review any claim appealed by a beneficiary that has been rejected for payment based on medical reasons. The Board decides on all policy issues. The Medical Appeals Board may also be contacted for expert opinion when required. Members of the Medical Appeals Board are not paid.

### **F. Financial Matters**

Merrill Lynch manages the investments of the Love Canal Medical Fund. The funds of the Love Canal Medical Trust Fund are invested primarily in Certificates of Deposit, Mutual Funds and to a lesser degree in U.S. Government securities. All financial matters are approved by the Board of Directors and by the NY State Supreme Court. A statement describing the account status is sent by Merrill Lynch to the Treasurer and Chairman of the Board each month.

### **G. Reporting to the New York State Supreme Court**

The Love Canal Medical Fund Board reports annually to the Supreme Court of the State of New York concerning its activities and all financial matters. Judge Joseph D. Mintz reviews and approves the budget and expenditures.

## **III YEAR 2008 ACTIVITIES**

### **A. Meetings**

In the year 2008, the Love Canal Medical Fund met in April, August and November, in Amherst, New York.

### **B. Board of Directors**

Jan Alexander, Joseph Dunmire, Luella Kenny and Barbara Quimby were re-elected to the Board in 2008. Three new members were added to the Board of Directors in 2008; Beverly Docteur, Perry Davis and Renee Retton.

### **C. Benefits Paid**

The amount of benefits paid to beneficiaries in the year 2008 was \$26,064.91. The total amount of benefits paid from the inception of the Fund, including the year 2008, is \$1,060,544.64.

### **D. Financial Statement**

Investment loss for the year 2008 was (\$**202,790.59**). Total expenses, including beneficiary payments were \$74,793.09 resulting in a net loss of (\$**277,583.68**). The total Fund balance at the end of the year was \$1,395,528.54.

Brown and Company completed an audit for the year 2007.

### **E. Update of By-Laws**

There were no changes to the LCMF By-Laws in 2008.

### **F. Medical Benefits Plan**

The Medical Benefits Plan Committee completed their review and updating of the Medical Benefits Plan in January 2008. The revised Medical Benefits Plan was mailed to all beneficiaries for whom LCMF had an address in March 2008.

## **G. Outreach Activities**

- Efforts to encourage beneficiaries to contact LCMF continued in 2008.
  
- An annual letter (with enclosures) was mailed to all beneficiaries with known addresses in March. Included in that mailing were:
  - Notice of a change in the Fund's PO Box Number to PO Box 1782, Amherst, NY 14226.
  - Telephone numbers of the Fund (716-773-6578) and a toll free number for Claims Adjuster, Albert F. Stager Inc. (1-800-427-1384).
  - A revised Medical Benefits Plan booklet.
  - Updated Annual Physical and Medical Claims forms.
  - Updated post card addressed to the Love Canal Medical Fund was enclosed for beneficiaries to inform the Fund of an address or name change. Seventeen post cards were returned during 2008 reporting deaths, name and address changes.
  
- Beneficiaries can use the Love Canal web site ([www.lcmf.org](http://www.lcmf.org)) to download Annual Reports, Medical Benefits Plan, bulletins and claim forms. There is also a link to the LCMF e-mail address ([lcmfund@yahoo.com](mailto:lcmfund@yahoo.com)) which beneficiaries may use to notify the Fund of a change of address, request claim forms and other pertinent information.
  
- A telephone line with voice mail (716-773-6578) was put into service in 2001 for beneficiaries. This continues to be the most used method for reaching the Fund. The Administrator responded to 38 inquiries in 2008.
  
- The LCMF continues to try to locate beneficiaries who move without providing new addresses.
  - In 2008 the Fund subscribed with a firm that provides updated addresses based on the USPS National Change of Address (NCOA) database.
  - The Fund's Administrator employed a commercial service in an attempt to locate "missing beneficiaries". This effort resulted in "finding" 16 beneficiaries whose previous addresses were invalid due to beneficiaries' relocation without notification to the Fund.

## **H. General Board Activities**

- The Medical Benefits Plan Committee completed revision of the Medical Benefits Plan including reformatting the plan into booklet form. Copies were mailed to all beneficiaries whose addresses were known in March.
- The Medical Claims Committee solicited Requests for Proposal (RFP's) from eight Western New York firms that have, as part or all of their business, the process of adjudicating medical claims. The Board directed the Committee to interview three of the respondents (including the current firm). As a result of this effort First Niagara Risk Management, Inc. was retained to assume Claims Adjusting services effective February 1, 2009.
- An Ad Hoc Board Committee solicited Requests for Proposal (RFP's) through two insurance brokers to provide the Board with Directors & Officers Insurance. Although many firms were invited, only two bids were received. The Board voted to acquire coverage from the lowest qualified responsible bidder effective January 1, 2009.

- Deferred a Medical Claim request to the Medical Appeals Board, which resulted in a denial decision to the claimant.
- The Fund acted as Co-Host with the Center for Health, Environment & Justice in recognizing the 30<sup>th</sup> Anniversary of Love Canal on August 1. The day began with a press conference at the site (photo on Annual Report cover), and ended with a reception in the evening that was attended by approximately 200 persons including local political dignitaries.
- The Fund's Nominating Committee solicited names of former Love Canal residents interested in considering Board Membership. Three of those responding were recommended for Board approval. The three, Perry Davis, Beverly Docteur and Renee Retton were approved and began their service at the August 2008 Board Meeting.
- The Board adopted the final Board Meeting each calendar year as the official "Annual Meeting". This action provides for uniform (time of year) completion of business identified in the Fund's By-Laws.
- Accepted with regret the resignation of Addie Levine who has served as an "Expert" category Board Member since the Fund's inception.
- Voted on the following Board Member categories at the Annual Meeting:
  - Election of Directors for three-year terms.
  - Election of Officers for a one year term
  - Election of Committee Members for a one year term

**LOVE CANAL MEDICAL FUND  
BOARD OF DIRECTORS SERVING IN 2008**

Janice Alexander	Resident
Dr. Perry Davis	Resident
Beverly Docteur	Expert
Joseph Dunmire	Resident
Lois Gibbs	Resident
Sheila Graziano, Esq.	Expert
Janice Hastrup, PhD.	Expert
Luella Kenny	Resident
Robert J. Krul	Resident
Stephen U. Lester, MS	Expert
Adeline Levine, PhD.	Expert - (resigned November 1)
Barbara Quimby	Resident
Renee Retton	Resident
Carol Segal, MD	Expert
Michael Zimmerman	Resident

**LOVE CANAL MEDICAL FUND OFFICERS**

Luella Kenny	Chairperson
Lois Gibbs	Vice-Chairperson
Sheila Graziano	Secretary
Joseph Dunmire	Treasurer