**Section 4425.40 Notarized Affidavit**

When a pension fund has entered into a custodial arrangement with a dealer, for the safekeeping of the pension fund's securities investments, on or before the dealer takes possession of or control of the securities, the pension fund shall obtain from the dealer a notarized affidavit, signed by a financial operations principal of the dealer. So long as such custodial arrangement is maintained, the dealer shall continue to provide the pension fund with a notarized affidavit by April 30th for each succeeding year. The notarized affidavit shall include, but not be limited to the following:

a) A statement that the dealer is a registered broker-dealer with the U.S. Securities and Exchange Commission and is a member in good standing with the National Association of Securities Dealers; and

1) With respect to securities that are not issued only in book-entry form:

A) All such securities of each pension fund are either held in safekeeping in a place reasonably free from risk of destruction or held in custody by a securities depository that is a "clearing agency" registered with the U.S. Securities and Exchange Commission;

B) The dealer is a member in good standing with the Securities Investor Protection Corporation;

C) The dealer will send to each pension fund, no less frequently than each calendar quarter, an itemized statement showing the moneys and securities in the custody or possession of the dealer at the end of such period; and

D) An independent certified public accountant conducts an audit of the dealer, no less frequently than once each calendar year, that reviews the dealer's internal accounting controls and procedures for safeguarding securities; and

2) With respect to securities that are issued in book-entry form:

A) All such securities of each fund are held either in a securities depository that is a "clearing agency" registered with the U.S. Securities Exchange Commission or in a bank that is a member of the Federal Reserve System;

B) The dealer records the ownership interest of the funds in such securities on the broker-dealer's books and records;

C) The dealer is a member in good standing with the Securities Investor Protection Corporation;

D) The dealer will send to each pension fund, no less frequently than each calendar quarter, an itemized statement showing the moneys and securities in the custody or possession of the dealer at the end of such period; and

E) The dealer's balance sheet containing a statement of its required net capital computed in accordance with Rule 15c3-1 (17 CFR 240.15c3-1), under the Securities Exchange Act of 1934, is audited annually by an independent certified public accountant, and the dealer's most recent audited balance sheet is furnished to each pension fund.

b) Representations that the dealer is:

1) Not authorized to act as an investment adviser for the pension fund; and

2) Not a natural person; and

3) In compliance with the provisions of Rule 15c3-3 (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934.

c) A certified copy of the dealer's most recent audited balance sheet, including the required net capital computation.