

#9

July 2014

IMPORTANT NOTICE TO RETIREES – SUSPENSION OF RETIREMENT BENEFITS

SUMMARY OF RULES IF YOU RETURN TO WORK AFTER RETIREMENT

You Are Prohibited from Working in Most Positions in the Pipe Trades Industry

And

You Must Immediately Provide Written Advance Notice to the Trust Fund Office if You Intend to Perform Such Work or Are Performing Such Work Now

HOW DOES THIS APPLY TO ME? If you are receiving a monthly Retirement Benefit or any other form of payment from the U.A. Local 467 Defined Benefit Pension Plan, **your monthly pension benefit will be suspended if you return to work in the Pipe Trades Industry in Canada and/or the United States** in accordance with the Plan Document under the rules summarized below, with certain exceptions as noted below. Your monthly pension benefit will also be suspended if you continue to work past the Normal Retirement Age (Age 65) in the Pipe Trades Industry for 40 hours or more per month.

WARNING – Retirement Benefits will be delayed until Normal Retirement Age (Age 65) if you return to work and later retire again.

1. **Prohibited Employment**

a. **No Industry Work Prior to Age 65**

If you are retired and are under Age 65 and you return to **any** work in the Pipe Trades Industry in the United States or Canada, your monthly pension benefit will be suspended, unless the work qualifies for one of the exceptions listed in section (c) below.

The term "Pipe Trades Industry" includes all work, public or private, covered, or if not actually covered, of the type covered by any Collective Bargaining Agreement of UA Local 467 or any Local Union of the UA, **as well as any other kind of work performed for any business engaged in the Pipe Trades Industry.** An Employee is presumed to be engaged the Pipe Trades Industry if he or she holds a classification of contractors' license which would allow him or her to do any kind of work covered under a Collective Bargaining Agreement with U.A. Local 467 or other U.A. Local Union.

Such work, which is also known as "Prohibited Employment," includes without limitation: (1) work in employment of the type performed by Participants covered by the Plan, known as "Covered Employment;" (2) work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan on the effective date of your retirement; (3) work in employment for compensation or wages of any kind or for profit in the Pipe Trades Industry; (4) work for profit as an owner or partner in any business directly or indirectly connected with the Pipe Trades Industry; (5) work where you supervise Participants in the same trade or craft or directly or indirectly use the same skills as Participants covered by the Plan on the date you retired. The minimal exceptions to these restrictions are summarized in section (c).

"Prohibited Employment" is interpreted in the broadest manner. "Hours" includes all hours for which compensation is paid or payable to you. Prohibited Employment includes work in which a salary is paid (including hourly, daily, weekly, bi-weekly, bi-monthly, monthly, annually, or any other rate), work for which you are considered an "Independent Contractor," work for which you will be entitled to receive deferred Retirement Benefits, or work in which you are due or actually receive anything of value in exchange for the services rendered.

b. Limited Work Allowed After Age 65 (prior to attaining Age 70 ½)

After your Normal Retirement Date (the first of the month after attainment of Age 65), your Retirement Benefits will be suspended if you work in the Pipe Trades Industry in California for 40 or more hours per month as follows, subject to the exceptions in section (c):

- i. The type of work performed by Participants covered by the Plan as of your Date of Retirement or after; **or**
- ii. Work which requires directly or indirectly the use of the same skills employed by Participants as of your Date of Retirement; **or**
- iii. Any supervision of Participants in the same trade or craft or directly or indirectly using the same skills as Participants covered by the Plan as of your Date of Retirement. This includes, without limitation, self-employment, salaried, hourly, and independent contract employment.

c. Exceptions to Industry Service Definition

The Board of Trustees has total and absolute discretion to determine whether your anticipated or actual employment is Prohibited Employment. **You are required to submit a written request to the Plan Office well in advance if you desire to work in the Pipe Trades Industry after retirement.** The following specific and limited categories are currently excluded from the "Pipe Trades" Prohibited Employment definition. Thus, you may perform such work while receiving Retirement Benefits, **subject to approval of the Board of Trustees prior to your beginning such work (after you make a written request to perform such work):**

- i. ***Government Work.*** Employment directly for the Government of the United States or for a political sub-division of the State of California. This exception does not apply to any employment in a job category which would be deemed Collective Bargaining work for a City, County, or School District.
- ii. ***Estimator.*** Employment as an Estimator for any contributing or participating employer. For this purpose, the term "Estimator" is an individual who spends all of his working time doing estimating and related work and who does not perform work which is otherwise covered under a Collective Bargaining Agreement, whether as a Foreman or Journeyman, to which his employer is party with UA Local 467..
- iii. ***In-House Maintenance.*** General in-house maintenance work at one or more fixed locations for outside of the Bay Area Counties of San Mateo, Santa Clara, San Benito, San Francisco, Napa, marin, Sonoma, Solano, Contra Costa, Alameda and Santa Cruz. .
- iv. ***Certain CAD Work.*** You may if you have attained age 60 or older, perform computer assisted drawing and design work, known as "CAD", for an Employer which contributes to this Plan; however, to be eligible to perform such work, you must obtain advance approval for such work from the Board of Trustees or the Board's delegate and must not have worked for such contributing Employer for at least thirty consecutive days. The Board of Trustees will have total and absolute discretion in determining whether any such proposed or actual work qualifies as CAD, regardless of the job title.

Note: Continued proof may be requested

Initial and continuing qualification of such employment as non-prohibited employment is determined solely by the Board of Trustees and continued proof that such employment meets the criteria may be required at any time. Failure to provide requested information regarding your employment or any other matter is grounds for suspension of your Retirement Benefits.

Presumption Regarding No Disability

If you are a Participant who retired on a Disability Pension and you return to work, the Plan will assume you are no longer eligible to receive a Disability Retirement Benefit. However, in rare situations, for good cause, an exception may apply. You must submit a written request to the Trust Fund Office for review; however, the benefit suspension rules will not apply to any disability retiree who returns to employment as part of any rehabilitation program and/or as a result of temporary recovery, and applies for resumption of disability retirement upon proof of recurrent disability

Temporary Return to Work Program (Full Employment-Disabled Retirees not eligible)

When there is Full Employment, or Full Employment in certain designated positions and the Board of Trustees establishes a Temporary Retiree Return to Work Program, Retirees who retired on a Disability Retirement are **not** eligible to return to work.

2. Written Request for Advance Determination

Prior to beginning work, you are required to submit a written request for a determination from the Plan Office on whether your contemplated employment will be prohibited under the Plan. The Plan Office will notify you with the determination of the Board of Trustees within a reasonable time, not to exceed ninety (90) days, unless the Board has not been provided with sufficient information to make such a determination or unless special circumstances exist. Failure to request an advance determination from the Board of Trustees will result in a suspension of your Retirement Benefits.

3. Plan Presumptions Allowed By Department of Labor (DOL) Regulations

If you do not report your work in the Pipe Trades Industry and Plan representatives learn that you have performed or are performing such work, the Plan will act on the basis of a **rebuttable presumption** that you have worked 40 hours each month in such employment. Moreover, if representatives of the Plan learn that you have performed or are performing such work at a construction site, the Plan will act on a rebuttable presumption that you have been employed at that job site with the same employer for at least as long as that employer has worked at the job site. You will, however, have the opportunity to rebut these presumptions.

4. Access to Information

If requested, you must provide the Plan with access to reasonable information for the purpose of verifying your employment, such as time sheets, logs or records, income tax returns (including attachments), W-2 forms, and any other employment or income-related records. You may also be required to provide written authorization for the Trust Fund Office to obtain access to your Social Security records, which will assist the Plan in determining your work history. You must also comply with any request of the Plan that you request information from an employer, contractor, subcontractor, union, government agency, or any other person or entity relating to post-retirement employment. The Plan will withhold your pension benefits if you fail to cooperate with any such information request.

5. Notices/DOL Regulation/Appeal

The Plan will notify you by first class mail if your Retirement Benefits are suspended. The notice will include the reason for the suspension and a general description of the Plan's benefit suspension provisions. Plan Rules state that **if you are eligible for Retiree Health and Welfare Benefits, and your Retirement Benefits are suspended for Prohibited Employment, you will lose your Retiree Health and Welfare Benefits indefinitely.**

The applicable DOL regulation allowing the suspension of your Retirement Benefits may be found in the federal Code of Federal Regulations. A copy of that regulation (29 C.F.R. § 2530.203-3) is available from the Trust Fund Office upon written request.

You are entitled to a review of the Plan's decision to suspend your Retirement Benefits by a written request filed with the Plan within 60 days of the date of the suspension notice. The Plan's claims and appeal procedure applies to a Suspension of Retirement Benefits.

If your monthly Retirement Benefits have been suspended, you should notify the Plan when your Prohibited Employment has ended. The Trustees have the right to withhold benefit payments until such notice is received by the Trust Fund Office and Trust representatives determine that the notice is accurate.

If you engage in work in the Pipe Trades Industry after retirement and then you cease working, your monthly pension benefits will not be resumed until you attain Normal Retirement Age (65) except for Participants who qualify for Disability Retirement after returning to Industry Service, or Disability Retirees who return to Industry Service after recovering from the disability and subsequently qualify for Early or Disability Retirement.

6. Payment Resumption/Offset Amounts Owed to Plans

If you are employed in Prohibited Employment, your Retirement Benefits will be suspended for a period equal to the number of months during which you were employed in Prohibited Employment. However, when you stop working

and want to retire again, you must notify the Trust Fund Office in writing. Failure to give such notice will delay the payment resumption of your Retirement Benefits.

If the Plan has paid you a monthly Retirement Benefit for any month in which you engaged in Prohibited Employment prior to Normal Retirement Age, the Plan may offset all such amounts from future Retirement Benefits before reinstating your Retirement Benefit and paying you any Retirement Benefits. If the Plan paid you any Retirement Benefits for any month in which you engaged in Prohibited Employment on or after you attained Age 65, the Plan may reduce your future Retirement Benefits by 100% for the first three months of any Retirement Benefit payment to which you would otherwise be entitled and up to 25% of future monthly payments until the full amount of overpayment is recovered. Any overpayments not recovered at the time of your death may be offset against any death benefits or survivor benefits that may be payable.

7. **Innocence is Not Defense Warning**

WARNING – The DOL regulations allow the offset of benefits owed to the Plan, regardless of whether you know or did not know of your entitlement to the payments.

If you have any questions, please contact the Trust Fund Office.

Sincerely,

Board of Trustees