# SHEET METAL WORKERS LOCAL NO. 85 PENSION FUND

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**April 27, 2009**

**Notice of Seriously Endangered Status as of January 1, 2009**
**for**
**Sheet Metal Workers' Local 85 Pension Plan**

This is to inform you that on March 31, 2009, the actuary for the Sheet Metal Workers' Local 85 Pension Plan (the "Plan") certified to the U.S. Department of the Treasury, and also to the Trustees, that the Plan is in seriously endangered status for the plan year beginning January 1, 2009.

Federal law requires that you receive this notice. The certification of Plan status and this notice are new requirements under the Pension Protection Act of 2006 (the "PPA") for multiemployer pension plans for plan years beginning in 2008. This notice is intended to meet the disclosure requirements of the PPA and to inform you of the status of the above mentioned Plan.

In general, PPA defines three levels of concern for multiemployer pension plans: #1) Endangered; #2) Seriously Endangered; or #3) Critical. The severity or potential severity of concern for plan participants increases from #1 to #3. Plans that do not meet any of these three levels of concern must still report to the Department of the Treasury, but these plans are not considered to be a significant risk and are therefore not required to provide the notice information contained herein.

**Seriously Endangered Status**

The Plan is considered to be in seriously endangered status because it has funding or liquidity problems, or both. More specifically, the Plan's actuary determined that the projected funded percentage is approximately 77% and that over the next seven plan years, the Plan is projected to have an accumulated funding deficiency for the 2015 plan year. A funding deficiency occurs when contributions made to a plan are less than the minimum required amount determined under current law. In determining this, the Plan's actuary has utilized the current demographic and financial information to project both assets and liabilities, based on the benefits and contributions that are reasonably expected to occur during the period and assuming that the Plan's assets return 7.00% per year.

Due to the Plan's being in seriously endangered status for the year, the Trustees are required to develop a "Funding Improvement Plan", which is explained further below.

**Funding Improvement Plan and Possibility of Reduction in Benefits**

Federal law requires multiemployer pension plans in seriously endangered status to adopt a Funding Improvement Plan aimed at restoring the financial health of the Plan. The law requires that the Trustees adopt a Funding Improvement Plan identifying options that will be proposed to the union and employers which will help to improve the funded position of the Plan. The Trustees must adopt the Funding Improvement Plan by November 26, 2009. Within 30 days after the adoption of the Funding Improvement Plan, the Trustees will furnish to the union and to contributing employers two or more schedules that will meet the objectives of the Funding Improvement Plan. One schedule must include an increase in contributions to the Plan; the other (the default schedule) will provide for reductions in future benefit accruals with limited or no increases in contributions to the Plan. The bargaining parties then must negotiate which schedule to ratify to meet the requirements of the Funding Improvement Plan. If the bargaining parties cannot agree on which schedule to implement, the default schedule will be implemented with a reduction in future benefit accruals and increasing contributions as needed to meet the Funding Improvement Plan.

From the time the Plan's actuary has certified that the Plan is in seriously endangered status, the Plan cannot accept a bargaining agreement which provides for: (a) a reduction in future contribution rates; (b) a suspension of contributions; (c) exclusion of new hires; or (d) benefit improvements. Additionally, once the Funding Improvement Plan has been adopted, the Plan may not be amended so as to increase benefits, unless the Plan actuary certifies that the benefit increases are consistent with the Funding Improvement Plan and can be paid for out of contributions not required by the Funding Improvement Plan.

If a contributing employer fails to timely pay contributions to the Plan in accordance with the Funding Improvement Plan, then the employer will be liable for the contributions, along with interest and liquidated damages under the Employee Retirement Income Security Act of 1974. In addition, the employer and its control group may be liable for an excise tax equal to the amount of the delinquent contributions.

**Where to Get More Information**

For more information about this notice, you may contact:

Board of Trustees of the Sheet Metal Workers' Local Union No. 85 Pension Plan
3835 Presidential Parkway, Suite 123
Atlanta, Georgia 30340
800-577-1713

You have the right to receive a copy of the Funding Improvement Plan from the Plan once it has been adopted. Additional inquiries may be directed to the Department of Labor, Division of Technical Assistance & Inquiries, Employee Benefits Security Administration, U.S. Dep't. of Labor, Washington, DC 20210.