

# BEYER-BARBER COMPANY

1136 HAMILTON STREET, SUITE 103  
ALLENTOWN, PENNSYLVANIA 18101

January 14, 2011

PHONE 610-435-9577  
FAX 610-435-2663  
www.beyerbarber.com

U.S. Department of Labor  
Employee Benefits Security Adm.  
Public Disclosure Room, N-1513  
200 Constitution Avenue, N.W.  
Washington, DC 20210

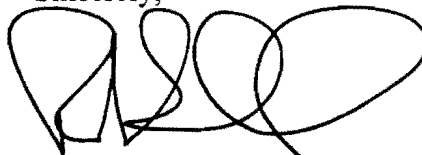
EBSA/PUBLIC DISCLOSURE  
2011 JAN 20 AM 10:19

## RE: Sheet Metal Workers Local #44 Retirement Income Plan

Dear Sir or Madam:

Beyer-Barber Company is the actuarial consulting firm for the Sheet Metal Workers Local #44 Retirement Income Plan. It has recently come to my attention that my firm erroneously provided the address of an incorrect government agency (IRS) to the plan administrator for the purposes of providing the Notice of Funded Status to the Department of Labor (DOL). As a result, the 2008 Critical Status Notice and 2009 Critical Status Notice are not posted on the DOL website. The notices were properly sent to the other interested parties (i.e., participants, beneficiaries, contributing employers, labor organizations representing participants, and the Pension Benefit Guaranty Corporation). Unfortunately, the notices were sent to the Secretary of Treasury instead of the Department of Labor. Enclosed please find the 2008 Critical Status Notice and 2009 Critical Status Notice for the Sheet Metal Workers Local #44 Retirement Income Plan.

Sincerely,



Randee W. Sekol, EA, MAAA, MSPA, FCA

RWS:cp  
Enclosures

cc: SVS Associates  
Charles W. Johnston, Esquire

## Notice of Critical Status For

### **Sheet Metal Workers Local #44 Retirement Income Plan**

This is to inform you that on October 29, 2008 the plan actuary certified to the U.S. Department of the Treasury, and also to the plan sponsor, that the plan is in Critical Status for the plan year beginning October 1, 2008. Federal law requires that you receive this notice.

#### **Critical Status**

The plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the plan's actuary determined that the plan is projected to have an accumulated funding deficiency for the October 1, 2009 to September 30, 2010 plan year.

#### **Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires pension plans in Critical Status to adopt a Rehabilitation Plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a Rehabilitation Plan. If the trustees of the plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 30, 2008. **But you should know that whether or not the plan reduces adjustable benefits in the future, effective as of October 30, 2008, the plan is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity while it is in Critical Status.**

#### **Adjustable Benefits**

The plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the pension plan may adopt:

- Post-retirement death benefits;
- Sixty-month payment guarantees;
- Disability benefits (if not yet in pay status);
- Early retirement benefit or retirement-type subsidy;
- Benefit payment options other than a qualified joint-and survivor annuity (QJSA);
- Recent benefit increases (i.e., occurring in past 5 years);

#### **Employer Surcharge**

The law requires that all contributing employers pay to the plan a surcharge to help correct the plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the plan under the applicable collective bargaining agreement. **With some exceptions**, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the plan is in critical status.

#### **Where to Get More Information**

For more information about this Notice, you may contact SVS Associates, Inc. at 248 Parrish Street, Wilkes-Barre, PA 18702, by telephone at 570-829-4634 or by e-mail at svssassoc@aol.com. You have a right to receive a copy of the Rehabilitation Plan from the plan once it has been prepared.