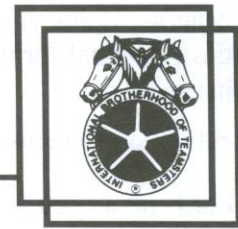


# LOCAL NO. 863 PENSION FUND

209 SUMMIT ROAD

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ALPHONSE RISPOLI, JR.  
SECRETARY



## Notice of Critical Status

### Local Union No. 863 I.B. of T. Pension Plan

Participants, Beneficiaries, Contributing Employers and Local Union 863 I.B. of T.:

This is to inform you that on September 2, 2008, the actuary for the Local Union No. 863 I.B. of T. Pension Plan (the "Fund") certified to the U.S. Department of the Treasury and to the Board of Trustees that the Fund is in critical status for the Plan year beginning September 1, 2008. Federal law requires that you receive this notice.

### Introduction

The Pension Protection Act ("Act"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards and added notification requirements for Trustees to share more information about a fund's financial circumstances with participants, contributing employers, and others directly related to the pension plan.

Many of the Act's safeguards relate to funding, which, in simplest terms, is how much a pension plan has coming in, going out, and what is in reserve (or "in the bank") for the future. The safeguards are intended to prevent future funding problems and correct those that have already developed.

The Act requires us to test the Fund annually to determine its official funding status. Standardized measurements were established for classifying pension plans. Funds that are in "seriously endangered" or "endangered" status (commonly known as yellow zone) or "critical" status (or, red zone) must notify all fund participants, beneficiaries, unions, and contributing employers of the fund's status, as well as take corrective action to restore the fund's financial health. These categories take effect for the Local 863 Plan as of September 1, 2008. It is therefore necessary that we inform interested parties what zone or status the Plan is in. This does not mean that the Plan's status or funding has substantially changed from the recent past. Rather the PPA now requires that the Plan state what zone the Plan is in under the terminology in the PPA.

### Fund's Status – Red Zone

The Fund is in critical status (red zone) as of September 1, 2008 based on the actuary's determination that the Fund is projected to have an accumulated funding deficiency for the 2008 plan year. What this means is that contributions are not expected to be high enough to meet government standards for funding promised benefits plus those that participants are currently earning.

### Rehabilitation Plan and Possibility of Reduction in Benefits

The Act requires that a fund in the red zone adopt a Rehabilitation Plan designed to improve its funded position so that, over time, it will be able to meet the statutory funding requirements. The Rehabilitation Plan, which will be adopted by July 27, 2009, will consist of one or more "schedules" of recommended contribution rate increases and possible reductions in benefits. The bargaining parties will be provided with these schedules for consideration in negotiations in new or renewed collective bargaining agreements. Of course, since the Plan recently made changes to and reductions in the benefits as described in the Notice sent August 15, 2008, this will be taken into account in determining whether future reductions in benefits will still be needed. In addition to revising the formula for future benefit accruals and making similar changes, under the Act, a Rehabilitation Plan may eliminate or reduce "adjustable benefits". Adjustable benefits include:

- Plan benefits, rights, and features, including pre-retirement death benefits (other than qualified joint and survivor annuities), optional forms including the lump sum and 10-year certain guarantee, cash vested benefits, and similar benefits; and
- Early retirement benefits or retirement-type subsidies.

The level of benefits you have already earned that are payable at normal retirement age as a single life or qualified joint and survivor annuity cannot and will not be reduced under the Act's rules. Any reductions pursuant to the Rehabilitation Plan will apply only to participants and beneficiaries whose benefit commencement date is after September 2, 2008. You will be notified before any further benefit reductions are put into effect, if any.

## **Benefit Restrictions**

Effective on the date of this notice, the Fund is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity (except for the payout of benefits which are less than \$5000) while the Plan is in critical status. This includes the payment of the Lump Sum Benefit and Cash Vested Benefit.

## **Employer Surcharge**

Just as the PPA will not permit payment of a lump sum benefit while the Plan is in critical status, it likewise imposes obligations upon the contributing employers, even before a Rehabilitation Plan is adopted. Thus the law requires that all contributing employers pay to the Fund a surcharge to help correct the Fund's financial situation, beginning 30 days after the employer is notified that the plan is in critical status.

The surcharge is a percentage of the employer's negotiated contribution rate. A 5% surcharge is applicable the first Plan year in critical status. The surcharge goes up to 10% for each succeeding Plan year in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements one of the schedules in the Rehabilitation Plan. These surcharges are separate requirements and are in addition to the obligation of the contributing employers to pay their regular contributions and their share of accumulated funding deficiencies.

For the remainder of the first Plan year of critical status, the 5% surcharge is due for any contribution actually paid on or after October 2, 2008, even if the obligation to the Fund arose earlier. For subsequent Plan years, i.e., beginning September 1, 2009, the 10% surcharge will apply to contributions actually paid on and after that date.

The surcharge amount will be in paid in a separate check made payable to the Teamsters Local 863 Pension Fund, with the notation "surcharge". These surcharges will be disregarded in determining the rate of benefit accruals and potential employer withdrawal liability allocations, as required by the law.

## **What's Next**

We understand that legally required notices like this one can create concern about the Fund's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund. With the assistance of the Fund's actuary, counsel and other professionals, and working with the contributing employers and the Union, the Trustees will develop a Rehabilitation Plan that addresses these issues. You should know that we expect that both contribution increases and benefit reductions will improve the Fund's financial condition and help to secure your pensions. As a final note, since the Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected developments can affect the Fund's status and any future corrective actions needed.

For more information about this notice or the Fund, you may contact the Fund Office at the address or phone number listed at the top of this letter.

Sincerely,  
The Board of Trustees

Date: September 2, 2008

*As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.*