



1000 Burnett Avenue, Suite 110 · Concord, CA 94520-2000
Mail: P. O. Box 4102 · Concord, CA 94524-4102
Telephone: (925) 746-7530 · (800) 552-2400 · Facsimile: (925) 746-7552
www.ufcwtrust.com

November 30, 2017

Western States Pension Assistance Project
Attn: Chris McAllister
505 12th Street
Sacramento, CA 95814

RE: UFCW NORTHERN CALIFORNIA EMPLOYERS JOINT PENSION PLAN & UFCW
NORTHERN CALIFORNIA EMPLOYERS JOINT INDIVIDUAL ACCOUNT PLAN
Marriage of [REDACTED] SS# XXX-XX-

Dear Mr. McAllister:

In answer to your letter dated November 13, 2017 regarding [REDACTED] pension records under the above-referenced Plans, we are providing you with the following information:

The Qualified Domestic Relations Order (QDRO) filed April 20, 2002 requires to pay a portion of Mr. [REDACTED] retirement directly to Ms. [REDACTED] only once the benefits become payable to Mr. [REDACTED]. The UFCW Northern California Employers Joint Pension Plan is a defined benefit plan. Benefits from the Pension Plan are paid only on a monthly basis. Therefore once he applies for his portion of the retirement benefits, we will contact Ms. [REDACTED] on the last known address we have on our records. Please be advised that if Ms. [REDACTED] has a change of address, she would need to call the Trust Fund Office to inform us of the change.

The calculations are based on the specific language of the filed QDRO; the community property interest in retirement benefits is determined by a fraction whose numerator is the Member's length of service from the date of marriage through the date of separation, and whose denominator is the Member's total length of service at retirement.

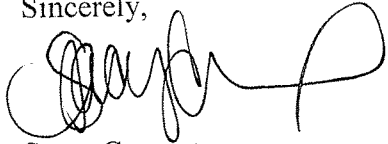
The UFCW Northern California Employers Joint Individual Account is a defined contribution plan. The balance in this account will continue to be adjusted for investment gains or losses until the account is withdrawn. The balance in this account can be distributed in one of three ways, a cash distribution, a direct rollover, or a combination direct rollover and cash distribution. Our records show that Ms. [REDACTED] received her portion of this benefit in the amount of \$4,423.65 on April 28, 2009.

We are unable to provide details of Mr. [REDACTED] pension credits as we do not have a Joinder, subpoena or his written authorization to release information.

Letter to Chris McAllister
November 30, 2017
Page 2

If you have any further questions or concerns, please feel free to contact us. Our number is (800) 552-2400, extension 7458.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stacy Cervantes', with a large, stylized flourish extending to the right.

Stacy Cervantes
Pension Analyst

Monday, January 08, 2018

VIA CERTIFIED MAIL- RETURN RECEIPT REQUESTED

UFCW- Northern California Employers Joint Pension Trust Fund
1000 Burnett Avenue, Suite 110
Concord, CA 94520-2000

RE: Alternate Payee:
DOB:
SSN: xxx-xx-

Plan Participant:
DOB:
SSN: xxx-xx-

Dear Plan Administrator:

The Western States Pension Assistance Project is a non-profit law office that assists individuals with questions regarding their pensions and retirement savings plans. I am writing on behalf of our client, [REDACTED] and have enclosed an authorization for your convenience.

I am writing specifically with respect to the issue of our client's request for information regarding her benefit as the Alternate Payee of plan of Plan Participant [REDACTED]. We believe that the plan wrongfully denied [REDACTED] information that she is entitled to under the Employee Retirement Income Security Act of 1974 (ERISA). Ms. [REDACTED] is entitled to the information requested for the reasons detailed below.

I. Statement of Relevant Facts

Ms. [REDACTED] is the Alternate Payee of Plan Participant [REDACTED] under a qualified domestic relations order. On November 13, 2017, [REDACTED] requested Plan Participant [REDACTED] pension file as well as "an explanation of how my benefit will be calculated and my current benefit amount." The Plan's November 30, 2017 response stated that Ms. [REDACTED] is not entitled to information from [REDACTED] Pension File and did not provide an estimate of Ms. [REDACTED] current benefit amount. Ms. [REDACTED] is currently planning for her own retirement and is seeking a current benefit statement as well as information that would assist her in determining her benefit amount and commencement date. This information is necessary for Ms. [REDACTED] be able to plan for her future and to know where she stands with respect to her rights as an alternate payee.

II. Legal Argument Supporting Ms. [REDACTED] Entitlement Under ERISA to The Requested Information

Senior Legal Hotline:
501 12th Street
Sacramento, CA 95814
P: 916.551.2140
F: 916.551.2197
www.lsnr.net

A Legal Services Corporation Program 

The duty to disclose material information is “the core of a fiduciary's responsibility.” *Eddy v. Colonial Life Ins. Co. of Am.*, 919 F.2d 747, 750 (D.C. Cir. 1990). A plan administrator has a fiduciary duty to provide a plan beneficiary with copies of documents relevant to his or her claim for benefits under the plan.

29 U.S.C. section 1056(d)(3)(J) states “A person who is an alternate payee under a qualified domestic relations order shall be considered for purposes of any provision of this chapter a beneficiary under the plan.” As an alternate payee, [redacted] is a beneficiary under the plan and the Plan Administrator has a fiduciary duty to respond to [redacted]’s requests for documents relevant to her benefit entitlement.

A. The Plan Administrator Has A Fiduciary Duty To Respond To A Beneficiary’s Request For Information

Pursuant to 29 U.S.C. section 1025(a), the administrator of a plan has an obligation to produce to a plan beneficiary a pension benefit statement, upon written request. The statement must provide, on the basis of the latest available information: (1) total accrued benefits; and (2) nonforfeitable accrued pension benefits, if any, or the earliest date on which benefits will become nonforfeitable. *Id.* The purpose of this disclosure provision is to ensure “that the individual participant [or beneficiary] knows exactly where he stands with respect to the plan.” *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 118 (1989), quoting H.R. Rep. 93-533, p. 11 (1973), U.S. Code Cong. & Admin. News 1978, p. 4649.

Under 29 U.S.C. section 1132(c)(1)(B), failure to perform under this obligation renders a noncompliant administrator liable for fines in the event he or she fails to timely produce the requested plan documents.

Any administrator ... who fails or refuses to comply with a request for any information which such administrator is required by this subchapter to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the administrator) by mailing the material requested to the last known address of the requesting participant or beneficiary within 30 days after such request may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to \$100 a day from the date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper. For purposes of this paragraph, ... each violation described in subparagraph (B) with respect to any single participant or beneficiary[] shall be treated as a separate violation.

By regulation, the maximum permissible penalty under section 1132(c)(1) has been increased to \$110 per day. 29 C.F.R. § 2575.502c-3.

Here, Ms. [redacted] as a plan beneficiary, is again properly submitting her request for information. Pursuant to ERISA, the Plan Administrator has 30 days to respond to this request.

III. Ms. [redacted] Specific Information Requests

Ms. [redacted] requests the following documents: a current benefit statement containing an estimate of Ms. [redacted]’s benefit amount as well as information from [redacted]’s pension file, including but not limited to his employment history, which would allow Ms. [redacted] to know the basis upon which the estimate of her benefit is calculated. Please send these documents to me at the Western States Pension Assistance Project, 501 12th Street, Sacramento, CA 95814 as soon as possible and not later than 30

days from the date of this letter. If I do not receive a response to this request within 30 days from the date of this letter, I will be contacting the Department of Labor for assistance in this matter.

Please feel free to contact me at (916) 551-2146 or via email at cmcallister@lsnc.net if you have any questions or concerns related to this matter. Thank you for your attention to this request.

Sincerely,

Chris McAllister
Staff Attorney, Western States Pension Assistance Project
Phone: (916) 551-2146
Fax: (916) 551-2197
Email: cmcallister@lsnc.net



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February 28, 2018

Western States Pension Assistance Project
Attn: Chris McAllister
501 12th Street
Sacramento, CA 95814

RE: UFCW NORTHERN CALIFORNIA EMPLOYERS JOINT PENSION PLAN & UFCW
NORTHERN CALIFORNIA EMPLOYERS JOINT INDIVIDUAL ACCOUNT PLAN
Marriage of SS# XXX-XX-8387

Dear Mr. McAllister:

In answer to your letter dated January 8, 2018 regarding Ms. 's pension records under the above-referenced Plans, we are providing you with the following information:

The Qualified Domestic Relations Order (ODRO) filed April 20, 2002 requires the above referenced plans to pay a portion of Mr. 's retirement directly to Ms. only once the benefits become payable to Mr. . The UFCW Northern California Employers Joint Pension Plan is a defined benefit plan. Benefits from the Pension Plan are paid only on a monthly basis. Once Mr. applies for his portion of the retirement benefits, we will contact Ms. at the last known address we have in our records. Please be advised that if Ms. has a change of address, she would need to call the Trust Fund Office to inform us of the change.

Alternate Payee benefit calculations are based on the specific language of the filed QDRO; the community property interest in retirement benefits is defined as an amount equal to one half multiplied by the petitioner's number of years of service during marriage up until the date of separation, divided by petitioner's total number of years of service, multiplied by the benefit payable.

The UFCW Northern California Employers Joint Individual Account is a defined contribution plan. The balance in this account will continue to be adjusted for investment gains or losses until the account is withdrawn. The balance in this account can be distributed in one of three ways: a cash distribution, a direct rollover, or a combination direct rollover and cash distribution. Our records show that Ms. received her portion of this benefit in the amount of \$4,423.65 on April 28, 2009.

Per your request, we have provided an employment history worksheet and pension estimate for Mr. .

Letter to Chris McAllister
February 28, 2018
Page 2

If you have any further questions or concerns, please feel free to contact us. My number is
(800) 552-2400 extension 7458.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stacy Cervantes', written in a cursive style.

Stacy Cervantes
Pension Analyst